CHAPTER 5: OTHER TOPICS

5.1 Non-recovery of siding charges

5.1.1 All Indian Railways: Non-recovery of Railway dues from siding owners

Poor management in execution of agreements with the siding owners and in raising of bills as per extant rules led to non/short-recovery of Rs.81.65 crore

A siding is constructed as an extension of a Railway line which goes up to the door steps of the Rail users. It eliminates handling of goods at the serving station and local haulage between the place of production/ consumption and the station. As per extant rules (Para 1823 of the Indian Railway Engineering Code) before sanction is accorded to the construction of siding by the competent authority, the applicant should execute an agreement setting out the terms and rates at which various charges due to the Railway would be recovered.

Siding Management is the responsibility of the field offices of Zonal Railways. At Zonal headquarters level, while the Chief Operations Manager is responsible for execution of agreements, the Engineering department is responsible for preparing plans and estimates and for construction and maintenance of sidings. The Commercial department is responsible for fixation of various charges leviable and the Accounts department for collecting the charges.

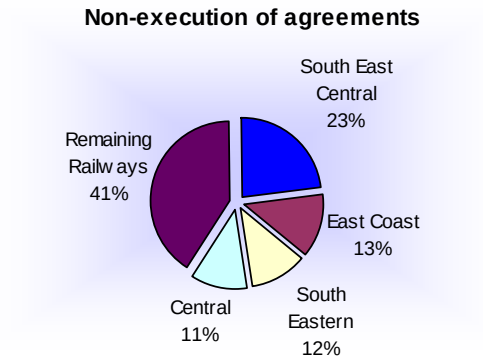
At the Divisional level, the Operating department is responsible for operations to and from sidings, Electrical department (Traction and General) for provision and maintenance of overhead equipment, Mechanical department (Carriage and Wagons) for examination of wagons moving to and from the sidings, Engineering department for maintenance/ inspection of permanent way as the circumstances demand and the Accounts office for preferring and realising bills for various charges based on the data supplied by the respective departments. In other words, different departments are, in one way or the other, responsible for smooth and effective maintenance of the sidings and the collection of dues.

Paragraph 2.3 of the Railway Audit Report No.9 of 2000 (Railways) had highlighted the shortcomings in the management of sidings relating to non-execution of agreements, poor maintenance of important documents relating to the sidings and non-realisation of various legitimate railway dues/ charges by the zonal railways. The Ministry of Railways (Railway Board) was still to furnish the Action Taken Note on this paragraph (December 2006).

A test-check of 773 sidings on 51 divisions of 13 Zonal Railways revealed that the deficiencies pointed out in the above mentioned paragraph still persisted as brought out in the succeeding paragraphs.

Non-execution of agreements

Out of the 773 sidings reviewed on thirteen Railways, in as many as 245 sidings (32 per cent) the Railways had not executed agreements with the siding owners so far. South East Central, East Coast, South Eastern and Central Railways were the major defaulters accounting for nearly 60 per cent of the sidings where agreements were not finalised.



There were varied reasons for-non execution of agreements such as disputes over the maintenance and operational lengths of sidings, non-framing of a revised format of the siding agreement exclusively for POL sidings as requested by the oil industry, differences in respect of clauses in the agreements, non-availability of records in the new Zonal Railways as well as lack of coordination among the Engineering, Operating and Commercial departments. For instance, in respect of 29 sidings on South Eastern Railway where agreements were not executed, it was found that in most of the cases though agreement plans were approved by the Engineering department long back and sent to Operating department for execution of the agreements, the Operating department had failed to execute the agreements. In respect of six sidings of Ahmedabad Division, the Commercial department in charge of siding agreements was not even aware if the agreements had been executed or not since details thereof were not transferred when the jurisdiction of the sidings was transferred from Ajmer Division during re-organisation.

Delay in execution of agreements

The delays in execution of agreements were considerable and in some cases extended over decades. For instance, on South Eastern Railway, the delays ranged from two to more than 50 years. Nine sidings which have been in operation for more than 50 years but where agreements had not been signed, were in Adra Division alone. Further, in respect of 15 sidings though a period of more than five years had elapsed since these were made operative, the agreements were yet to be executed (December 2006). Similarly, in respect of IOC, Feroke and IOC, Irugur sidings on Southern Railway, the extent of delay in execution of agreements ranged from nine to eleven years. The reason for non-execution in the IOC sidings was mainly the failure to arrive at a standard agreement format. The fact that agreements had not been executed though the sidings were working for a number of years was indicative of poor monitoring by the management of these Railways.

There was also no effective mechanism for periodic assessment of why the agreements had not been entered into. In fact, this aspect did not even figure in the various reports being submitted to the Railway Board by the Zonal Railways.

Non/short recovery of dues where agreements were not executed

The absence of an agreement results in difficulties in raising bills against various charges as well as disputes when these bills are raised. Considering that some of these sidings have been in operation for a number of years now, it is essential that details of land, capital investment, staffs deployed etc. are maintained meticulously and also formalised in the agreements. In respect of 114 sidings (47 per cent) out of the 245 sidings where agreements had not been entered into, the Railways were yet to recover various charges (siding, interest and maintenance, inspection, cost of railway staff, demurrage and deficiency, re-railment, land licence fee, conservancy, loco hire and overhead equipment) worth Rs.48.31 crore. Major defaulters were South Eastern, South East Central and East Coast Railways who accounted for 85 per cent of Rs.48.31 crore assessed as due. The unassessed amount is likely to be much larger.

For instance, on Khurda Road division, 12 sidings became operational between 1930 and 1998. The agreements, however, were not executed in respect of eleven sidings. A total of Rs.10.54 crore was due from eight of these sidings in respect of land licence fee as assessed. In respect of the remaining four sidings, no licence fee was fixed or assessed and no bills were raised (February 2006) due to non-availability of documents and details such as date of allotment, area of land etc. pointing to failure on the part of the concerned departments to safeguard railway interests.

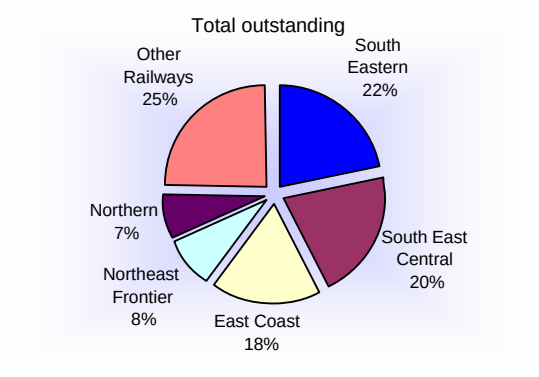
Non/short recovery of dues where agreements had been executed

Even where agreements are available, it is necessary to raise bills systematically and ensure collection of dues. Out of the 528 sidings, however, where agreements had been executed, in respect of 236 sidings (45 per cent), various railway dues/ charges such as siding charges, interest and maintenance charges, inspection charges, cost of railway staff, demurrage and deficiency, re-railment, land licence fee, conservancy, loco hire and overhead equipment charges had not been realised/ claimed as seen from the records of the Railways. These unrealised charges work out to Rs.33.34 crore. Major defaulters were Northeast Frontier, Northern, South Central, Central and South Eastern Railways who accounted for 65 per cent of these dues.

The reasons for non-recovery of these charges ranged from deficiencies in revising the rates as per Railway Board orders to delays in raising of bills resulting in controversies and disputes when these were finally raised. In a few instances, the delays were of such long duration that the sidings were closed before the collection of dues, precluding any possibility of recoveries.

For instance, on East Coast Railway, in respect of ten sidings of Waltair Division, the Railway remained silent for more than 16 years and finally preferred the arrear bills for land rent as per Railway Board's orders of 1985 and subsequent orders in three phases from 2002 onwards. The bills raised remained unrealised to the extent of Rs.1.14 crore. Even these, on scrutiny, showed that they were not in consonance with the extant orders. One siding has since been closed.

On West Central Railway, an amount of Rs.0.30 crore towards the cost of commercial staff was also pending as on January 2006 from four siding owners in Jabalpur Division (Telcom Factory, Richhai, Telecom Factory, Madan Mahal, BPCL, LPG Plant, Bhitoni and Satna Stone Lime Co.). Out of these, only BPCL, LPG Plant is in existence and the other three sidings were closed in September 2004 as no traffic had been operated during the previous two-three years.



Thus, the total assessed outstanding in respect of sidings, both where agreements have been entered into and where they have not been entered into, is Rs.81.65 crore. The major defaulters are South Eastern, South East Central and East Coast Railways who accounted for 60 per cent (Rs.49.05 crore) of the total dues, assessed by audit during test check. The amount recoverable in respect of sidings where the dues have not been assessed is likely to be considerable.

Though a number of cases have been highlighted time and again in the Audit Reports, the Railways have not taken any concerted steps to ensure that the system functions smoothly and there is no leakage of revenue. With the passage of time there is every possibility of documents not being available anymore and disputes over payments arising.

The specific instances in the succeeding paragraphs 5.1.2, 5.1.3, 5.1.4 and 5.1.5 of this Report also highlight lacunae in the recovery of dues from siding owners due to various lapses on the part of the Railways.

Recommendations

It is recommended that:

(i) The Railways draw up an action plan for execution of agreements where they are wanting, and carry it out in a time bound manner.

(ii) The dues to be recovered from the siding owners should be assessed on priority and action taken for recovery thereon.

(iii) All disputes regarding payments between siding owners and the Railways should be resolved on priority, within a specific time period.

The matter was brought to the notice of Railway Board in October 2006; their reply was awaited (December 2006).

5.1.2 Northeast Frontier: Railway — Non-recovery of cost of staff, interest and maintenance charges from Defence sidings

Recovery to the tune of Rs.4.76 crore was pending from the Defence department towards cost of staff, interest and maintenance charges in respect of Military sidings constructed by the Railway on Assisted siding terms

Railway Codal provisions stipulate that in respect of Assisted sidings, maintenance and interest charges on the cost borne by Railway and the cost of Railway staff employed at the siding are to be recovered from the siding owner. In order to ensure timely recovery of the dues, the executive in charge should inform the Accounts department about the date of opening of the siding so that the Accounts department is able to prepare and prefer the bills correctly. Rules also provide that agreements are executed for construction, maintenance and working of the siding, before sanction is accorded for any work, incorporating all terms and conditions.

In Lumding Division of Northeast Frontier Railway, two Defence sidings Narengi and Digaru were taken up for gauge conversion and fully converted by January 2000 and July 2000 respectively at a cost of Rs.9.75 crore and Rs.1.54 crore.

Scrutiny of records revealed that though agreements were in place earlier before conversion, fresh agreements which had to be entered into before BG conversion were not executed even after a lapse of about six years after commissioning. The delays were due to confusion about the authority empowered to execute the agreement though as per Railway Board's instructions of 1986, the Divisional Railway Manager of the respective siding was clearly given the powers to execute such agreements. Though this was clarified to the Divisional Commercial Manager by the Chief Commercial Manager in 2003 itself, no further action was taken.

As a result, no bills towards staff cost, interest and maintenance charges were preferred up to July 2006. A sum of Rs.4.76 crore is due to the Railways on this account for the period up to March 2006. Thus, the failure of the Commercial department to resolve a simple issue and enter into agreements has resulted in non-recovery of Railway dues of Rs.4.76 crore as well as the loss of interest thereon.

The Railway in reply stated (August 2006) that action would be taken to execute the agreements within the next two months. No action has been taken so far (December 2006). Moreover, the loss of interest on the dues would continue.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).

5.1.3 South East Central Railway: Loss due to non-realisation of Railway's dues from siding owner

Railway Administration's inordinate delay in preferring claims and lack of follow up action in realisation of dues from a siding owner rendered Rs.1.23 crore irrecoverable

A private siding of Cement Corporation of India/Akaltara (CCI/AKT), after energisation was handed over to the Open Line organisation of Bilaspur Division in February 1983. No formal agreement, as required under rules, however, was executed with the siding owner.

Notwithstanding clear provisions in the codes to prefer claims and realise dues in time to safeguard Railway's financial interest, the Railway delayed inordinately the preferring of claims such as overhead equipment (OHE) maintenance charges, capital cost of OHE and charges for inspection by 8 to 14 years, for which services had been regularly rendered. Although the energisation took place in November 1981, the Railway Administration preferred the claim of Rs.0.26 crore in October 1995 after a lapse of almost 14 years. The long delays coupled with the absence of agreements gave the firm scope to escape from payment of Railway's legitimate dues, totalling Rs.1.06 crore, which remain unrealised till date (December 2006).

In 1997, the siding authorities intimated the Railway Administration that their production activities had stopped since December 1996 and requested withdrawal of the Railway staff because of their continuous financial crisis. In July 1999, CCI/AKT again informed Railway that it was not possible for them to make any payment against the Railway's claims as CCI/AKT was referred to BIFR as a sick unit. Despite this, Railway Administration continued to render the work of maintaining OHE installation and inspection of the siding by the Railway officials till 1999-2000. Records did not indicate any serious attempt or vigorous pursuance to realise the dues.

Similarly, delays in preferring bills in respect of one more siding of CCI/Mandhar (closed from August 1996 under BIFR) has made it impossible to recover the outstanding dues now. The Railway has proposed (March 2006) waival of outstanding capital cost and OHE maintenance charges worth Rs.0.17 crore.

The Railway Codes distinctly delineate the roles of the Executive and Accounts departments regarding construction, maintenance and execution of agreement etc. of private sidings and recovery of dues but the sheer delay in preferring bills as well as the continued maintenance in spite of shutting down of all activities by the firm points to poor monitoring and has led to loss of Rs.1.23 crore.

The chances of realisation of railway dues seem to be bleak as the firm has been referred to BIFR. Also no legal redressal is possible in the absence of any agreement.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).

5.1.4 East Central Railway: Non-recovery of Railway dues

Indecisiveness on the part of the Railway Administration to act on Railway Rate Tribunal's judgement and resolve any disputes with Obra Thermal Power Station resulted in non-realisation of dues to the tune of Rs.12.36 crore

An assisted siding (including a small private portion) of Obra Thermal Power Station (OTPS) was served by Obra station and bills were being raised by the Railways for various charges such as maintenance, interest and staff costs. The OTPS authorities, however, approached (12 August 1986) the Railway Rates Tribunal (RRT) against the rates applied by the Railways on various counts. In 1992, the RRT gave their judgement indicating detailed guidelines for a revised system of billing to be adopted by Railways. The revised system was made operative from 12 August 1986 and Railways were to refund excess charges collected, if any, within six months consequent upon this judgment. The Railway Administration failed to take any decision either to go for appeal against the judgement or accept it in toto.

They continued raising bills as per the old pattern. Further, an amount of Rs.1.87 crore was suo moto adjusted in 1994 against the dues of the period August 1986 to March 1994 through Northern Railway's energy bills payable to OTPS. Thereafter, only in October 1999, bills for Rs.6.18 crore were preferred as per the judgement. OTPS authorities, however, informed the Railway that the subject bills would be entertained only after settlement of bills as per revised system for the period from August 1986 to March 1994. Even then, the Railway did not think it proper to revise the earlier bills.

Subsequently, after a detailed meeting (15 December 2000) with OTPS authorities, the Railway realised that they had no option but to follow the judgement in toto. Otherwise, OTPS authorities would not accept any bill. In March 2001, the entire billing was revised from August 1986 onwards as per the judgement given by RRT. OTPS, however, continued refusing to pay the amounts billed stating that these were not as per the RRT judgement (July 2002). No meetings were held thereafter to ascertain what the areas of disagreement were and how these could be resolved. The matter was not taken up at sufficiently higher levels either. Thus, the Railway has not effectively pursued the recovery from OTPS resulting in the amount remaining unrealised. The total dues have accrued to Rs.12.36 crore up to March 2006 and would keep on mounting till the disputes are settled and OTPS is prevailed upon to pay up the dues.

The matter was brought to the notice of Railway Board in October 2006; their reply was awaited (December 2006).

5.1.5 East Coast Railway: Loss due to unwarranted maintenance of an asset not belonging to the Railway

Railway administration's unwarranted maintenance of a siding belonging to Vishakhapatnam Port Trust Railway without execution of any agreement led to avoidable expenditure of Rs.2.06 crore

The Naval Armament Depot (NAD), formerly a defence siding at Vishakhapatnam (VSKP) with a track length of 10.41 kms was being

maintained by the erstwhile South Eastern Railway Administration since 1948. Subsequently in April 1964, the siding was transferred to Vishakhapatnam Port Trust (VPT) Railway. No agreement was finalised, however, between the Railway and the Port Trust. In 1988, the work of maintenance of assisted sidings and its billing was decentralised. However, details of bills preferred and other necessary particulars of the siding were not made available by the Zonal headquarters to the Divisional authorities.

Although the Railways' ownership of the siding had ceased, the Railway administration (Engineering department) continued the maintenance work at their own cost. Subsequently in the absence of necessary data, bills for the period 1989 to 1998-99 were preferred (August 1998) but these bills were raised wrongly on the earlier owner (NAD/ VSKP), who naturally did not respond and the dues remained unrealised. This indicates a serious lacuna in the maintenance of records and monitoring system of the Railway.

As per an audit assessment of the records to the extent available, the amount recoverable from the VPT on account of deployment of staff for maintenance and for renewal work up to the period 1998 works out to Rs.1.10 crore. However, no bills were raised on VPT. Moreover, there was no agreement in force for this period which could support the Railway's claim.

In November 1998, a Memorandum of Agreement (MOA) between the Railway Administration and the VPT Railway, was executed. As per Clause 4 (i) of this MOA, each party was responsible for maintenance of assets within their respective limits. Notwithstanding this unambiguous provision, the Engineering department continued the maintenance of the siding and incurred avoidable expenditure of Rs.0.96 crore from January 1999 to October 2005, underscoring their failure to protect the financial interests of Railways. No bills were raised for this period either.

Thus, the continued unwarranted maintenance of assets not belonging to Railways without any agreement with the siding owner up to 1998 and thereafter, notwithstanding the unambiguous provision in the agreement executed led to avoidable expenditure of Rs.2.06 crore. The loss would continue to mount till the maintenance work ceases or a new agreement is entered into.

The Railway stated (August 2006) that the ownership of the siding continued to vest with the Defence and as such the charges for maintenance were not recoverable. This reply is not acceptable as the correspondence of the Railway clearly shows that the ownership was transferred to the Port Trust. Moreover, VPT have also confirmed that this siding is a part of their network and is served by them. Hence, as per the MOA the maintenance of the siding is the responsibility of the Port Trust. Since the Railways have carried out the maintenance, charges thereon become recoverable.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).

5.2 Non-recovery of Railway dues

5.2.1 East Central Railway: Non-recovery of electricity charges from private parties/Government Departments

Failure of Railway Administration to raise bills for electricity charges led to non-recovery of Rs.1.43 crore from private parties/government departments

As per extant orders, electricity charges are to be recovered on the basis of the average purchase rate of electricity as on 1st January every year plus service charge of 40 per cent from private parties and 32.5 per cent from Government departments who receive the supply through the Railways. These rates are to be applicable from 1st April every year.

The Electrical department of the Division is responsible for intimating revised rates of electricity and rental charges from time to time and the Accounts department is responsible for the billing and accountal/ realisation thereof.

Scrutiny of records of three electrical units at Danapur, Patna and Jhajha under Danapur Division for the period from 2001-02 to 2005-06 revealed that in respect of 23,32,919 units of electricity consumed by private parties/ Government departments, no bills were prepared/ preferred by the Accounts department due to non-availability of the current rates of electricity and rental charges of electrical connections from the Electrical department. Though a number of reminders were sent from the Accounts department, the rates were not intimated by the Electrical department for more than five years. The dues amounted to Rs.1.43 crore up to June 2006.

When the matter was taken up in Audit (July 2005), the Railway Administration stated (September 2005) that bills amounting to Rs.0.85 crore had been prepared and amounts would be realised shortly.

As on date (December 2006), however, the bills have yet to be preferred due to non-availability of revised rates of rental charges. Thus, due to lack of coordination between Electrical and Accounts departments, there was delay in preparation of bills for more than five years as well as delay in realisation of the amounts thereon totalling up to Rs.1.43 crore. It is pertinent to mention that whether the amounts are collected or not from the end users, the Railway has to pay the charges to the Electricity department to avoid disconnection or penalty.

The matter was brought to the notice of Railway Board in October 2006; their reply was awaited (December 2006).

5.2.2 Central Railway: Non-recovery of Railway dues from State Government

Failure of the Railway to enforce the provisions of agreement for closure of a level crossing or to obtain reimbursement of the expenditure incurred by them has resulted in non-recovery of Rs.1.00 crore

Keeping in view the high volume of vehicular and pedestrian traffic at level crossing No. 256 at Betul on Nagpur -Itarsi section of Central Railway, the Madhya Pradesh Government approached (April 1987) the Railways for

provision of a Road Over Bridge (ROB) in lieu of the existing level crossing. Accordingly, an agreement was executed in July 1987 for sharing of cost and maintenance charges. As per provisions of the agreement, the existing level crossing was to be closed immediately on opening of the ROB for traffic. In case Railway was restrained from closing the level crossing for any reason, the State Government was required, on demand, to reimburse the entire cost borne by Railway.

The Construction Organisation sanctioned the estimate of the work amounting to Rs.2.00 crore in February 1989. While the work of bridge proper was to be carried out by Railway, the construction of approach roads was to be carried out by the State Government. The work was completed in July 1999 and the ROB was opened to traffic in February 2001. Railway had incurred Rs.0.75 crore on the construction of the bridge proper.

Audit scrutiny of records of Nagpur Division revealed that on opening of the ROB for traffic in 2001 the Railway Administration had approached the State Government for permitting the closure of the level crossing. But after that till 2004 there was no action on the part of the Railway to either close the level crossing or to take up the matter again with the State Government. On the other hand, expenditure continued to be incurred on the maintenance of the level crossing. It was only after the matter was taken up by Audit in March 2004, that Central Railway approached (April 2004) Madhya Pradesh Government to reimburse the cost of the bridge, the cost of staff manning the level crossing and maintenance charges of bridge proper.

In reply to Audit, the Railway Board stated (October 2006) that due to filing of a Public Interest Litigation (PIL) appeal against the closure of level crossing in the court, the closure could not be affected. They also stated that the State Government has been asked to pay the entire cost of Rs.1.17 crore (including interest) if the level crossing were not closed.

The reply is not convincing because no stay order had been imposed by the court so far and the Railway could have gone ahead with the closure. Moreover, Railway's demand for reimbursement of the cost has not yielded any results so far (December 2006).

Thus, the failure of the Railway to enforce the provisions of the agreement for closure of the level crossing or to obtain reimbursement of the expenditure incurred by them has resulted in non-recovery of Rs.1.00 crore. Besides, the continued maintenance of a level crossing in a busy section compromises Railway safety defeating the objectives for which the ROB was constructed.

5.2.3 East Central: Railway — Non-realisation of maintenance charges for Road over/ under bridges

Non-execution of agreement for realising maintenance charges of two Road over/ under Bridges led to non-realisation of Rs.1.63 crore

Rules inter-alia provide that the Engineering department has to execute an agreement with the Road authorities before undertaking construction of any Road Over Bridges (ROBs)/ Road Under Bridges (RUBs) stipulating therein the details of the liability to be borne by the parties including the maintenance

and other costs. The maintenance charges should be recovered from the parties concerned on the basis of either a fixed percentage of the cost of work or actual expenditure (including departmental charges). Bills are preferred and recovery of dues is monitored by the Accounts department.

Danapur Division of East Central Railway has fourteen ROBs and seven RUBs which were being maintained by the Railways since their construction. Scrutiny of records revealed that no agreement has been executed with the Road authorities so far (October 2006) though some of the bridges were constructed long back and, therefore, the liability for maintaining the bridges could not be determined. Of these, eight bridges were constructed after 1980 and at least in these cases, details should have been available with the Railway authorities.

It was observed that the Railway preferred bills amounting to Rs.1.63 crore in respect of two ROBs, Rajendra Pul/ Mokama and Rajendra Nagar for the period 2002-03 to 2005-06. But, the amount could, however, not be recovered so far (October 2006) from the parties for want of agreements. Bills in respect of the remaining bridges have not been preferred at all. The Railway could not cite any reasons for non-preferment of bills of maintenance charges in respect of even the eight bridges constructed after 1980 nor could they produce any documents enabling assessment of the dues. These documents should have been permanent records in view of recurring nature of expenditure and recovery of dues thereon.

Thus, due to non-observance of codal provisions for execution of agreement and maintenance of relevant records, the recovery of maintenance charges amounting to Rs.1.63 crore in case of two ROBs remained unrealised. Loss for non-recovery of maintenance charges in case of the remaining ROBs/ RUBs could not be worked out for want of adequate details with the Railway. Considering that railway capital is involved in the construction of these bridges and the Railway incurs expenditure on their maintenance, failure even to assess the dues recoverable indicates a failure of the monitoring mechanism and internal controls of the Railway.

The matter was brought to the notice of Railway Board in October 2006; their reply was awaited (December 2006).

5.2.4 South East Central Railway: Loss due to non-realisation of maintenance charges of Level Crossings

Railway Administration failed to realise maintenance charges of Level Crossings owned by Bhilai Steel Plant leading to a loss of Rs.1.21 crore

Four level crossings (LCs) were constructed (km.855/7-9, 856/23-24, 859/17-18 and 862/9-11) way back during 1957-1962 on the request of Bhilai Steel Plant (BSP) authorities in the Bhilai-Durg section. Since construction of these LCs, maintenance charges were paid by BSP authorities up to 1999-2000 as per terms of agreement executed by them with the Railway.

In September 1999, the BSP authorities requested the Railway administration to make available copies of the agreements so as to ascertain the period for which BSP had agreed to bear the cost of maintenance charges. These

agreements, however, were not traceable in the records of the Railway and could not be produced. No payment on this account was made from 2000-01 by BSP though bills were raised by the Railway.

Meanwhile, a Road Over Bridge (ROB) in lieu of LC at km 856/23-24 was constructed on cost sharing basis and a Road Under Bridge (RUB) in between two LCs at KM 859/17-18 and KM 862/9-11 was constructed and cost shared by BSP and the State Government. The Railways, however, failed to close these LCs despite repeated requests by the BSP authorities. BSP felt that since they had contributed to the cost of the bridges and these level crossings were mostly used by the general public rather than by BSP employees, payment of bills towards maintenance charges of LCs was totally unjustifiable. The Railway Administration, however, did not take any serious action to pursue the matter with the State Government and close the LCs. Meanwhile, they continued incurring expenditure on the maintenance of the unnecessary LCs and also raised bills thereon.

The Railway's indecisiveness in regard to closure of the related LCs after construction of bridges, failure to ensure safe custody of important agreements and to resolve the issue of non-payment of maintenance charges resulted in non-recovery of maintenance charges of Rs.1.21 crore for the period 2000-01 to 2005-06. The loss will continue to increase till the disputes are settled.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).

5.2.5 Southern and Western: Railways — Non-recovery of revised licence fees and non-levy of interest on the belated recovery

Railways failed to implement the revised rates of licence fees in time due to which arrears of Rs.1.80 crore could not be recovered besides non-levy and loss of interest of Rs.2.40 crore

The mobile catering units on the Indian Railways were being run departmentally as well as through Private Agencies. In respect of the latter, licence fees were directly linked to the assessed sales turn over. In 1984, Railway Board fixed the rate of licence fee as a maximum of five per cent of the sales turn over which was revised (March 2000) to 15 per cent in respect of Rajdhani/ Shatabdi Trains and to 12 per cent in respect of other trains. These rates were applicable with effect from 1 July 1999. In terms of clause 16 (b) of the licence agreements entered into by Southern Railway, interest at the rate of 12 per cent per annum was leviable on Railway dues in case of default by the licensee from the date the amount became due.

The Zonal Railway administration did not implement the revised rates till July 2000 when the Indian Railway Caterers Association challenged the revision in the High Court of Kerala. Though the court granted an interim stay on licence fee collection at the revised rates, it was finally decided in favour of the Railways in December 2001. Thereafter, Civil Appeals filed in the Supreme Court in the year 2002 against the judgement of the High Court of Kerala were also dismissed by the Supreme Court in March 2005 with the direction to the

appellants to deposit arrears of licence fee within a period of two months i.e. by 28 May 2005. However, the Railway neither sought for nor received any directions regarding the interest element.

Consequent upon the Supreme Court's judgment (March 2005), the Zonal Railway administration implemented the revised rates but, as of 31 March 2006, out of licence fee arrears amounting to Rs.2.65 crore recoverable from 12 catering contractors (18 contracts), a sum of Rs.1.80 crore only could be recovered from ten contractors (15 contracts) and the balance (Rs.0.85 crore) was to be recovered from three contractors (four contracts) besides an interest element of (Rs.1.44 crore).

On this being taken up by Audit with the Railways (November 2005 and January 2006), Zonal Railway administration stated (April 2006) that while the cases were sub judice the licensees continued to remit at the pre revised rates and since the levy of enhanced rate was in a court of law it cannot be construed as default on the part of the licencees and, therefore, interest was not leviable. No demand for the interest was ever made by the Railways.

The Railway's arguments are not tenable in view of the fact that interest becomes leviable from the date the licence fee becomes due as per the agreement. The date of the court judgement cannot be taken as the date from which the licence fee becomes due. Since recoveries at the revised rates are being made retrospectively, interest on delayed payment is inevitable.

On Western Railway, however, it was seen that the contracts did not have any clause regarding levy of interest on delayed payments. Thus, in addition to Rs.0.95 crore outstanding against five mobile contractors towards revision of licence fee, an amount of Rs.0.96 crore by way of interest can not be collected at all. Further, the non-inclusion of any interest clause has only encouraged the delay in payments.

The matter was brought to the notice of Railway Board in August 2006; their reply was awaited (December 2006).

5.2.6 North Western: Railway — Short recovery of repair and maintenance cost of coaches and wagons from Defence Ministry

Failure to maintain accounts as prescribed has resulted in less recovery of Rs.10.29 crore towards repair and maintenance cost of coaches and wagons reserved for/ owned by Defence Ministry

As per codal provisions, an all round charge of four per cent per annum on the capital cost of the vehicle as per railways books or the present day cost of construction of a similar new vehicle, whichever is higher, should be recovered from other Ministries for the maintenance of railway coaches and wagons etc. reserved for/owned by them. Also, to ascertain that recoveries made by Railway do not fall short of actual expenditure incurred, Railway should maintain a Proforma Capital and Revenue Account.

A review by audit of the records for the years 2002-03 to 2005-06 maintained by Carriage and Wagon workshop, Ajmer in respect of cost of repairs and maintenance of about 379 vehicles reserved for/owned by Defence Ministry

(128 coaches including AC, I Class and sleeper class coaches and 251 wagons) revealed that Workshop administration was not maintaining the Proforma Capital and Revenue Account. It had raised the bills for Rs.15.50 crore for the recovery on the basis of four per cent of the present day cost of the vehicles, both coaches and wagons. The actual expenditure incurred on POH in the workshop together with open line expenditure, based on annual statistics of Zonal Railway, however, was Rs.25.79 crore. This resulted in a short recovery to the extent of Rs.10.29 crore.

The Railway stated in reply (August 2006) that the proforma accounts cannot be maintained as these vehicles move all over the country and the wear and tear was considerably less in respect of these vehicles as compared to other railway stock. This reply is not acceptable as the Mechanical Code clearly prescribed that the recovery should not fall short of actual expenditure incurred by the Railway. The maintenance of proforma accounts is to this end. In the absence of proforma accounts the only expenditure details available are from the annual statistics of the Railways based on which the short recovery has been assessed.

The Railway Board however, stated (December 2006) that all Zonal Railways had now been advised to ensure that Proforma Capital Accounts were maintained by them as per codal provisions.

Thus, the failure to maintain proper accounts has resulted in a loss of Rs.10.29 crore to the Railways.

5.3 Miscellaneous irregularities

5.3.1 Eastern Railways: Avoidable payment due to non-submission of Sales Tax Returns

Railway's failure to streamline the system of paying Sales Tax and submission of Sales Tax Returns in time resulted in avoidable expenditure of Rs.9.58 crore

As per provisions of the West Bengal Sales Tax Act, Eastern Railway, being a registered dealer, was liable to pay monthly sales tax by the 20th day of the following month and to submit quarterly sales tax returns within the time frame fixed. The timely payment of tax as well as submission of returns to the sales tax department was statutory and obligatory on the part of Railway administration.

The system followed was that each Inspector of the departmental catering units across the zone prepares the sales returns of the unit and submits to the Chief Commercial Manager for assessment of the sales tax payable for the month. Tax is thus calculated in a consolidated manner for all the units located in West Bengal and sales tax returns are sent to Accounts for vetting and payment.

Scrutiny of records, however, revealed that the Railway administration had failed to submit the returns in time paving way for the sales tax authorities to take recourse to legal redress for getting their payments. The Railway was forced to pay tax along with penalty and interest thereon as per ex-parte

orders. Sometimes the amounts were deducted through Reserve Bank of India (RBI) for ex-parte assessments made by the Sales Tax department.

To avoid the above problems, a system of adhoc payment of sales tax was introduced in the mid '90s. This exercise also proved futile as the delayed submission of returns continued. The Railway paid Rs.11.63 crore as against the due amount of Rs.2.05 crore from 1990-91 to 2000-01 towards payment of Sales Tax with interest and penalty charges thereon. Further claims of Rs.2.54 crore pertaining to the years 2003 and 2004 were pending with the Railway (July 2006).

Some of the ex-parte orders were passed due to non-appearance of the railway advocate. Moreover, the Railway's attempts at defending cases or obtaining refunds were not successful either. Thus, negligence on the part of the Commercial department as a whole and failure of Railway advocate in particular resulted in avoidable expenditure of Rs.9.58 crore which will recur until the submission of returns in time is ensured.

When the matter was taken up (April 2006), the Railway accepted (August 2006) that the extra expenditure was as a result of some unavoidable difficulties and system lapses. They further added that the non-availability of staff having expertise in taxation as well as transmission delays in receiving returns from units spread out over the zone were the main reasons, causing delayed submission of sales tax returns. The reasons put forth, however, do not negate the audit contention that delayed submission of sales tax returns has resulted in heavy penalty imposed on the Railway. The Railway could have resolved this more than one decade old problem with concerted efforts.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).

5.3.2 Railway Board: Incorrect fixation/revision of capital cost and non-revision of rates of maintenance charges of wagons owned by CONCOR

Non-adoption of rates of maintenance charges as per the committee's recommendations resulted in a loss of Rs.180.51 crore to railways. The failure to correctly assess capital cost as per the extant instructions led to short recovery of maintenance charges of Rs.14.20 crore

Maintenance of the 4,937 wagons owned by Container Corporation of India (CONCOR), a Public Sector Enterprise under the Ministry of Railways, is being undertaken by the Indian Railways. As per Railway Board's instructions (August 1999), maintenance charges for wagons owned by CONCOR were leviable at the rate of five per cent per annum on the capital cost of the wagons. The capital cost, for working out maintenance charges, was to be revised every three years so as to correspond to the current cost of acquiring a similar wagon. If manufacturing of certain type of wagons had been discontinued, the current capital cost should be worked out by obtaining the last manufacture cost from the manufacturer and updating the same at the rate of 10 per cent per annum to account for annual inflation. These instructions were revised (April 2003) and capital cost of such wagons from April 2003

was to be updated on the basis of average inflation rate as per Reserve Bank of India (RBI) index.

A review of recovery of maintenance charges of wagons owned by CONCOR revealed deficiencies leading to loss of Rs.180.51 crore to the Railways besides short recovery of maintenance charges of Rs.14.20 crore as detailed below:

Incorrect fixation of rate of maintenance charges of CONCOR owned wagons

Railways recover maintenance charges from CONCOR at the rate of five per cent of the capital cost of CONCOR owned wagons. The rate of five per cent was arrived at by taking into account the cost of maintenance of wagons booked under 'Repairs and maintenance of carriages and wagons'. However, items such as cost of establishment, cost of examination and maintenance of rakes by gangmen as well as cost of maintenance of plant and machinery in workshops/ depots and departmental and general charges, contingencies and profit element etc. were not included while deciding the rate of maintenance charges.

In a study conducted by Northern Railway (July 2004), the actual expenditure incurred on maintenance of BLC wagons owned by CONCOR was found to be 8.2 per cent of the capital cost of wagons. A multi-disciplinary committee constituted for the purpose under the directions of Railway Board found (December 2005) that the maintenance charges should actually be 13.26 per cent of the average capital cost of wagon after considering the cost actually incurred by the Railways in maintenance of these wagons and recommended immediate revision of the rates. The Railway Board, however, has yet to take a final decision in the matter (September 2006) .

Review of records revealed that CONCOR paid maintenance charges of Rs.109.27 crore for the period 1998-99 to 2005-06 at the rate of 5 per cent of capital cost of wagons owned by them. Based on actual cost of maintenance of CONCOR wagons as per findings of the Committee i.e. 13.26 per cent, the railways suffered a loss of Rs.180.51 crore during the years 1998-99 to 2005-06.

Incorrect adoption of capital cost of BFKI[9] wagons

In 1998-99, Indian Railways sold 1,357 BFKI wagons to CONCOR at a transfer price of Rs.6.25 lakh each. These wagons were no longer being manufactured. As per the extant instructions the capital cost of these wagons should be increased by ten per cent every year up to March 2003 and after that it should be increased on par with the increase in the RBI index. The capital cost had to be reassessed on this basis every three years and the maintenance charges levied as a percentage on the capital cost so assessed. On a review of the records it was seen that Northern Railway revised the capital cost only in September 2005 and that too on par with the RBI Index from 2001 itself instead of 2003. Further the cost of modifications (Rs.15.19 crore) made

[9] BFKI denotes flat bogie wagons

during April 1999 to March 2001 was also not included while updating the capital cost.

Incorrect fixation of capital cost and incorrect revision by adopting RBI index with effect from April 2001 instead of April 2003 resulted in short recovery of maintenance charges of Rs.13.73 crore from CONCOR for the period 1998-99 to 2004-05 in respect of these wagons. If the actual rate of 13.26 per cent were adopted instead of the prevailing five per cent, this would further increase to Rs.36.41 crore.

As per instructions, when the current capital cost of the wagon is available, the same should be adopted instead of linking with the RBI index. In the case of 320 BLC wagons procured by CONCOR in 1998-99, maintenance of which is carried out by the railways, the capital cost was revised on the basis of RBI index though the current capital cost was available in 2001-02. This resulted in short recovery of Rs.0.47 crore towards maintenance charges of BLC wagons during 2001-02 to 2003-04. If the actual rate of 13.26 per cent were adopted, the short recovery would amount to Rs.1.24 crore.

Thus non-adoption of rates of maintenance charges as per the committee's recommendations resulted in a loss of Rs.180.51 crore to railways. The failure to correctly assess capital cost as per the extant instructions led to short recovery of maintenance charges of Rs.14.20 crore.

The matter was brought to the notice of Railway Board in August 2006; their reply was awaited (December 2006).

5.3.3 Central, Western, Southern, : Eastern, West Central, East Coast, South Eastern and Metro Railways — Loss due to non-segregation and non-provision of direct power connections

The failure of the Railways to take adequate steps for segregation of power connections as also for arranging direct connections to railway quarters has resulted in loss of Rs.46.77 crore in two years alone. The recurring loss will continue till appropriate action is taken

In April 1986, Railway Board instructed all Zonal Railways to segregate feeder lines for the Railway's residential colonies from the Railway's own distribution networks which included workshops, yards, service buildings, etc. so that the charges for power supplied to residential colonies could be paid at domestic rates. In January 1987, Zonal Railways were also instructed to apply the same rate for recovery from employees that would have been paid by them for obtaining direct connections from supplying agencies. Railways were also advised to study the feasibility of taking direct connections where possible. Further it was mentioned in the 1987 orders that for new quarters constructed thereafter all efforts should be made to take direct connections so that occupants could be billed directly.

A comment regarding avoidable recurring payment of electric energy charges due to non-provision of separate connections for railway colonies over North Eastern, Northern, Southern and Western Railways was made in Para 3.4.1 of

the Report of Comptroller & Auditor General of India -Union Government (Railways) for the year ended on 31 March 1998. In their Action Taken Note Railway Board had stated that segregation required the consent of the State Electricity Board and the execution of works depended on availability of funds. They added that the policy of segregation would be reviewed on the basis of experience gained by implementing the decision taken in January 1987.

Audit scrutiny of records of Central, Western, Southern, Eastern, West Central and Metro Railways, however, revealed that although the implementation of orders issued in April 1986 and January 1987 was far from satisfactory as brought out below, no review has been carried out by Railway Board so far (December 2006).

- In a large number of colonies, the electricity was still being obtained through common connections for supply to service buildings as well as to residential colonies. As the electricity authorities charge commercial/industrial rates for common connections which are higher than charges for domestic connections, Railways have suffered a loss of Rs.15.67 crore during the years 2004-05 and 2005-06 on this account alone. This could have been avoided had the segregation of connections been carried out.
- In 945 colonies, the electricity was obtained through bulk connections. Though the charges in these cases were paid at domestic rates, there was a large gap between the amounts paid by Railways to electricity agencies and that recovered from Railway employees. This could have been avoided had the Railway Board's orders of 1987 regarding direct connections been implemented. This has resulted in a loss of Rs.28.45 crore in two years alone.
- Further, after issue of orders for obtaining direct connection to newly constructed Railway quarters, 15,702 new quarters were constructed in Central, Western, Southern, Eastern, West Central and East Coast Railways. However, direct connections were not obtained for 7,643 quarters (48 per cent) as a result of which Railways have incurred avoidable extra expenditure of Rs.2.65 crore on this account during 2004-05 to 2005-06.

In their replies, the Zonal Railways stated that the quantum of work being very high the works of segregation have been taken up in phases. It was also stated that as the occupants keep changing from time to time, it was not practicable to keep track of whether all the dues were cleared by them at the time of vacation of quarters. They further stated that in many cases, electricity authorities have not agreed to their proposals for providing direct connections to individuals.

The replies are not convincing because even after a lapse of 18 years, the Railways have not taken adequate measures to avoid the extra recurring expenditure being incurred on procurement and distribution of electricity. Keeping in view the huge loss, the matter regarding segregation of connection

for commercial and domestic purpose as also provision of direct connections to individual quarters is required to be taken up with the electricity authorities at higher levels to resolve the problem.

Thus, the failure of the Railways to take adequate steps for segregation of power connections as also for arranging direct connections to railway quarters resulted in loss of Rs.46.77 crore in two years alone. The recurring loss will continue till appropriate action is taken.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).

5.3.4 Central Railway: Avoidable payment of water charges

Failure of the Railway to take adequate measures for segregation of domestic and non-domestic supplies of water coupled with non-repair of defective water meter for around nine years resulted in avoidable payment of Rs.10.53 crore

Water requirements of the Railways whether for domestic or for general purposes are met mainly through supplies from local bodies of State Governments. The supply at several places is obtained through common connections which serve both residential as well as service buildings, workshops etc. and the charges in such cases are paid at non-domestic rates which are higher than domestic rates charged for residential buildings.

The issue of avoidable payment due to non-segregation of common connections in Greater Mumbai areas of Western and Central Railways was taken up with Railway Board in 1998-99 and as a remedial measure Railway Board had advised both Railways to segregate the pipelines. However, in the absence of general instructions for segregation of all common connections over the Zonal Railways, corrective action was initiated only at those locations which were covered in para 4.4.6 of Railway Audit Report No.9 of 2000.

Further scrutiny of records of Mumbai Division of Central Railway revealed that there were still several connections where water was being supplied for domestic as well as non-domestic purposes leading to avoidable expenditure. This resulted in extra expenditure of Rs.1.99 crore during the year 2005-06 alone.

Water for the residential colony at Bhusaval was also obtained through common connections and payments in this case also were made at non-domestic rates leading to avoidable payment of Rs.4.40 crore during the period April 2002 to December 2005.

It was further observed that though the water meter provided to measure the quantity of water was defective from December 1995, it was repaired only in July 2004. As a result, the water supply authorities had billed for the full quantity of the sanctioned quota of water. The Railway, however, paid only for 90 per cent of the sanctioned quota based on the drawal of water at the filtration plant. This was further borne out by the reduction in sanctioned quota from November 2003 onward. They failed, however, to take up the issue of over billing with the water supply authorities. The Rs.4.14 crore which was so withheld by the Railway, however, was partly set off against other dues to

the Railway by the water supply authorities and partly had to be paid up finally by the Railway. Thus, due to non-repair of a meter for around nine years and suo moto deductions in bills, the Railway ended up incurring an avoidable expenditure of Rs.4.14 crore.

In reply, Railway stated (May 2002 and June 2006) that segregation of water supply arrangements for domestic and commercial purposes was a costly proposal and payment of domestic consumption on a theoretical basis was a better option. They also added that the water supply authorities had agreed to install separate meters at three locations at Bhusaval. As regards non-segregation of water connection in Mumbai Division, the Railway stated that the Municipal authorities had not responded to Railway's requests. It was also argued that since Municipal authorities were not charging property tax and service charges, the higher payment of water charges was compensated.

The reply is not acceptable because the water supply authorities had made it clear in September 2002 itself that separate pipe line, separate water meter and its joint calibration for three to six months was necessary for assessment of the quantity consumed in domestic sector and only then the proposal to charge domestic rates can be considered. Moreover, the setting off of exemptions of property tax, which are available to all Central Government departments, against water charges is an unacceptable argument.

Thus, the failure of the Railways to take adequate measures for segregation of domestic and non-domestic supplies of water coupled with non-repair of defective water meter for around nine years resulted in avoidable payment of Rs.10.53 crore. The recurring expenditure will continue to occur till corrective action is taken on all zonal railways.

The matter was brought to the notice of Railway Board in October 2006; their reply was awaited (December 2006).

5.3.5 East Central: Railway — Delay in installation/non-installation of shunt capacitors

Delayed installation/ non-installation of shunt capacitors at traction substations led to avoidable penalty charges of Rs.6.49 crore

Power required by the Railways for traction and other purposes is obtained from State Electricity Boards (SEBs) through sub stations provided at different places. As per tariff of SEBs and the agreements executed by Railways with SEBs, penal charges are leviable when the average power factor falls below the prescribed minimum limit. In order to minimise such penal charges, Railway Board instructed (October 1986) the Zonal Railways to install equipment with adequate capacitor banks. Railway Board again issued instructions in January 1999 that capacitor banks should be included in the estimates for all future Railway Electrification works and these should be commissioned along with the Traction Sub Stations (TSSs). In previous Audit Reports, the non-provision and delayed installation of shunt capacitors had been brought out (Para No.5.3.4 of Railway Audit Report No.9 of 2000 and Para No.6.1.2 of Railway Audit Report No.8 of 2003). Despite these

comments and Railway Board instructions, the Zonal Railway failed to ensure that shunt capacitors were installed in time as brought out below:

Danapur Division of East Central Railway purchases power from Bihar State Electricity Board (BSEB) through five TSSs (Lakhisarai, Khusroopur, Danapur, Ara and Dumraon). These TSSs were installed between August 1999 and August 2003. The tariff rates of BSEB effective from 1 November 2002, stipulated that in the event of the average power factor falling below 0.90 during a month, for every fall of 0.01 in power factor a surcharge at one per cent on the demand and energy charges would be levied. The tariff also provided for penalty for exceeding the maximum demand of a TSS.

Scrutiny of records, however, revealed that the capacitor banks were commissioned in four TSSs only during March 2005 and that too after a considerable delay of more than two to five years after installation of the TSS. In one TSS (Dumraon), the capacitor bank was yet to be installed (December 2006). Due to delayed installation of capacitor banks, the power factor at these TSSs remained low between 0.73 and 0.89 during the period April 2003 to March 2005.

Accordingly, Railway had paid Rs.6.25 crore on account of low power factor surcharge during the period April 2003 to November 2005. It was also noticed that due to exceeding of the maximum demand in some of the months in all five sub stations, Railway incurred avoidable expenditure of Rs.0.24 crore during the period 2003-04 to 2004-05.

As seen from the procurement process, there were considerable delays at every stage from initial proposal to final award of work leading to the delayed installation of the capacitor banks. When it was realised as far back as in 1986 that capacitor banks were necessary for effective control of power consumption, not planning for their timely installation was indicative of poor coordination on the part of the Electrical department. Thus, due to delay in installation/ non-installation of capacitor banks at five TSSs, Railway had to bear an avoidable expenditure of Rs.6.49 crore.

The matter was brought to the notice of Railway Board in October 2006; their reply was awaited (December 2006).

5.3.6 North Eastern: Railway — Avoidable payment due to non-segregation of electricity consumption and levy of incorrect rates

Delay in segregation of electricity consumption and not ensuring levy of correct rates resulted in avoidable payment of Rs.2.07 crore

Under the tariff structure of Uttar Pradesh Power Corporation Limited (UPPCL) effective from August 2000, LMV-1 rates were applicable to light, fan, power and other domestic purposes (including residential colonies/ townships), LMV-2 to light, fan and power for commercial purposes and LMV-4 for Government hospitals. In case of mixed loads the highest of the rates applicable would be levied unless such load is segregated and separately metered.

An agreement executed by the Divisional Office at Varanasi with the erstwhile Uttar Pradesh State Electricity Board (now UPPCL) in September 1990 provided for the electric connection No.24417 for supply of energy for Divisional Railway Hospital, Varanasi. As per tariff, the residential colonies should have been under LMV-1 and the hospital under LMV-4. Being a non-segregated and mixed load, the tariff at best could have been under LMV-4 as that was higher than LMV-1. But, from May 2000 onwards, the billing was done under LMV-2 (as for commercial purposes). This resulted in avoidable overpayment of Rs.1.71 crore during the period May 2000 to December 2004. Though the matter was brought to the notice of the Railway administration by Audit repeatedly (April 2000, April 2002 and February 2003), the Railway administration got the loads segregated and the tariff corrected only from January 2005, after nearly five years.

Similarly, the Railway Administration had entered into an agreement in August 2001 with UPPCL for Badshahnagar Railway Colony (connection No.19760) at LMV-4 rates, instead of LMV-1 rates. This resulted in excess payment of Rs.0.36 crore during the period August 2001 to January 2006.

The Railway Administration stated (May 2006) in reply to Audit that in the years 2000 and 2001, the Railways were excluded from the LMV-4 category and so only LMV-2 rates could be levied. This is not tenable as the tariff schedule for LMV-4 excludes Railway offices but not Railway hospitals. Moreover, if the Railways had been excluded entirely from LMV-4 rates, the agreement in respect of the colony at Badshahnagar in August 2001 could not have been entered into.

Thus, the non-segregation of loads costing a mere Rs.0.25 crore and not ensuring the correct levy of rates has led to a loss of Rs.2.07 crore.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).

5.3.7 Eastern Railway: Loss due to non-preferment of bills

Non-preferment of bills for the damaged wagons received back from Bangladesh resulted in loss of Rs.1.43 crore. An additional amount of Rs.1.48 crore remained unrealised

Freight trains towards Bangladesh have been operated by Eastern Railway via Gede towards Darshna side since long. In July 2000, one more route i.e. via Petrapole-Benapole was re-opened. As per Clause 9 of the agreement between Indian Railways and Bangladesh Railway, arrangements for joint train examination in both up and down directions were made at Benapole in Bangladesh (being the agreed point of interchange for movement of goods traffic). Therefore, train examination staff/ observers from both the Railways were posted at Benapole for extensive check of the damages/ deficiencies of the wagons which were then sent to the sick line at Naihati on Eastern Railway for repair. The bills for the damages and deficiencies to wagons were to be prepared, on the basis of daily records duly signed by both the observers and then claims preferred accordingly on Bangladesh.

The train examination staff/ observer from Eastern Railway was withdrawn on 17 October 2003 due to issues relating to payment of foreign allowance. This resulted in non-maintenance of records of damages/ deficiencies in respect of wagons repaired at Naihati. Consequently, the bills were also not raised on Bangladesh. Audit has assessed a loss of Rs.1.43 crore due to non-raising of bills during November 2003 to June 2005 as per clause 9 (c) of the Fundamental and Subsidiary Rules for interchange of traffic between India and Bangladesh taking into consideration the total number of damaged wagons received from Bangladesh via Benapole and repaired at Naihati. There has also been an alarming increase of the damages to wagons returning from Bangladesh.

Records also revealed that an amount of Rs.1.48 crore remains unrealised pertaining to different periods in respect of the bills already preferred for both the routes. This points to a failure in the monitoring and follow up of bills by the Accounts department.

Railway stated (July 2006) that separate bills via Benapole route were not raised. The bills were raised on proportionate basis along with the Darshna route. The total shortfall works out to Rs.0.19 crore if the calculation is done, taking the ratio of number of trains received from Bangladesh via Darshna and Benapole. During November 2003 to June 2005, the number of trains received via Benapole was three times lower than that received via Darshna.

The Railway's reply is not tenable. Railway accepted that no records after 17 October 2003 of damaged wagons returned back via Benapole were available with them and hence the raising of proportionate bills is not clear. The audit calculation is based on the total number of damaged BCX wagons returned from Bangladesh and placed at the Naihati sick line, after taking into account the wagons for which bills were raised. The figures also support the increase in damages to wagons received via Benapole.

Thus, failure to resolve a simple issue pertaining to foreign allowance of staff for more than three years has resulted in non-preferment of bills amounting to Rs.1.43 crore. Poor monitoring and follow up has led to a further non-recovery of Rs.1.48 crore in respect of even the bills raised.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).

5.3.8 Central Railway: Non-recovery of cost of damage to wagons

Non-implementation of Railway Board's instructions for raising bills for damages to wagons and recovery thereof has resulted in loss of Rs.1.10 crore of assessed damages

Tipplers are bulk handling systems used extensively on the Railways for unloading wagons by tipping them. In July 1988, Railway Board instructed the Zonal Railways to ensure that tipplers or any other bulk handling systems installed in sidings were of RDSO approved design and commissioned to their satisfaction. Having received reports of damages to wagons due to defects in tipplers, Railway Board had asked Chief Rolling Stock Engineer (CRSE),

Central Railway to inspect all the tipplers in his jurisdiction. It was also stipulated that in case defects in tipplers were noticed, the siding owners be asked to get them rectified within a given time frame failing which they may be advised that Railway would be authorised to recover the cost of damages occurred inside the siding in terms of agreement. In response, CRSE had reported (May 1990) that tipplers in all the seven power houses located on Central Railway were deficient in rubber cushioning pads resulting in damages to wagons. It was also stated that power house authorities had been asked to maintain the tipplers in proper order failing which any damages to wagons would be recovered. In November 2002, Railway Board reiterated instructions regarding recovery of cost of damages and deficiency charges.

Audit noticed that though tipplers were installed at the Tata Thermal Power plant (TTPS) siding, Trombay for unloading of coal, there was nothing on record to indicate that they were of RDSO approved design. It was also observed that though damages to 3,631 wagons were noticed by the staff during March 2002 to July 2005, bills for repair charges of Rs.1.10 crore were raised in respect of 2,559 wagons only pertaining to the period from July 2003 to July 2005. But the amount was not paid by the TTPS on the grounds that these would inflate the cost of electricity produced and would affect the consumers. The Railway, however, has done nothing further to enforce their claim. Further scrutiny of records of four other sidings viz., two of Nagpur and two of Bhusaval revealed that though damages to wagons due to defects in tipplers were noticed, no bills for recovery of repair charges were raised. The number of wagons damaged during the period from November 2003 to March 2006 were 414 in CTPS, Chandrapur, 1,977 in Sarni Power House, 21,566 in Bhusaval Power House and 2,120 in Nasik Road Power House.

In reply to Audit, Railway Administration stated (June 2006) that bills were raised from July 2003 onward only when it was found that the damages to BOXN wagon rakes were more than the other rakes. The reply is not tenable because as reported by CRSE in 1990, the wagons were getting damaged at that time also and siding owners were informed to maintain the tipplers in good condition failing which any damages to wagons will be recovered. Railway administration, however, failed to implement their instructions for raising bills as and when the damages occurred as a result of which bills have not been raised in respect four sidings and for one siding only from 2003 onwards which amount also has not been recovered.

Thus, failure of Railways to recover the assessed damages has resulted in a loss of Rs.1.10 crore. Over and above, there are damages to 27,149 wagons for which Railway has not taken any action to either assess the damages or to raise the bills against the parties.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).

5.3.9 Southern Railway: Non-recovery of rectification charges on account of damages to wagons due to accidents

Despite clear provisions in the agreements, Railway Administration has failed to recover rectification charges (Rs.1.02 crore) from the Chennai Port Trust towards damages to wagons due to accidents/ derailments

Chennai Port Trust (CPT) is a member of the Indian Railway Conference Association (IRCA). Southern Railway Administration has entered (1987) into an agreement (effective from November 1984) with the erstwhile Madras Port Trust for the performance by the latter of terminal services on traffic despatched to and from the Inner Harbour from and to stations of Southern and other Railways. A similar agreement effective from the same date in respect of ore traffic despatched to the Outer Harbour (Bharthi Dock) was also signed.

Clause 11(a) of the Inner Harbour agreement and clause 7(c) of the Outer Harbour agreement provide for the recovery of rectification charges from CPT towards the damages/ deficiencies on Railway wagons in the Harbour due to thefts and pilferage of wagon fittings, misuses, accidents, derailments etc. Clause 10 (iii) of the Outer Harbour agreement further provides for the joint assessment of the damages to wagons within the trust area and raising of the debits thereon against the Trust.

Two types of bills are raised by the Railway i.e. (i) bills towards damages/ deficiencies due to theft and pilferage of wagons fittings, missing items, etc and (ii) bills towards the damages caused due to accidents/ derailments inside the CPT. For the former, joint sample checks (random) are carried out periodically and bills raised on an average basis. The bills in respect of damages due to accidents were, however, not included in these as verified by audit.

The Railway did not prefer any bills, on account of damages due to accidents and derailments, till April 2000 when a single bill was preferred for the first time for Rs.0.16 crore towards damages/ deficiencies caused to wagons from December 1992 to March 1999.Though bills (Rs.0.86 crore) for the wagons damaged in accidents and derailments were continued to be raised after that, CPT Authorities refused to pay on the grounds that these damages had also been covered in the random checks and rectification charges were claimed by Railway consequently. During January 2004 they, however, agreed that these would be accepted provided it was proved that there was no duplication of bills.

The Divisional authorities referred (May 2004) this dispute to the Zonal administration. But they failed to take up the matter at sufficiently senior levels and resolve the issue. No meetings were held after 2004 and the bills continue to remain unpaid. On this being taken up in Audit, the Railway stated (January 2006) that the outstanding dues from CPT were highlighted in every meeting with them but without fruitful results.

This contention is not acceptable as the root of the problem was because of not taking action till 2000 when a consolidated bill was raised. After that also there was ineffective follow up as evidenced by the fact that the first meeting was only in the year 2004. Even in 2004, CPT did not outright reject the claim but only wanted proof of non inclusion of these bills in the normal damage bills. After 2004 again there has been no high level meeting or correspondence at sufficiently senior levels resulting in non recovery of Rs.1.02 crore towards damages to wagons due to accidents.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).

5.3.10 East Central: Railway — Avoidable payment of demand charges for exceeding the contract demand

Failure of Railway to take up the matter of overcharging and defective meter with the appropriate authority as provided in the agreement, resulted in excess payment of Rs.1.19 crore

In order to meet the electricity requirements of Sonnagar - Garwah Road section of Mughalsarai Division, now in East Central Railway, the Railway Administration had entered into an agreement with BSEB in October 1997. As per agreement, the maximum contract demand was 5000 KVA (5 MVA). However, the maximum demand charges for supply in any month were to be levied for the maximum demand recorded for the month or 75 per cent of the contract demand, whichever was higher. In terms of para 16.5 of the tariff of Bihar State Electricity Board (BSEB), if the maximum demand during any month of a financial year exceeded the limit of 110 per cent of the contracted demand, the same shall be treated as new contract demand for that financial year and the minimum charges shall be payable on that basis. The meter for measuring the electricity was to be provided by BSEB and in case of any dispute regarding its accuracy, Railway was to refer the matter to Electric Inspector, Government of Bihar for resolving the dispute. The payments made prior to and afterwards were to be adjusted according to the results of testing by the Electric Inspector.

The Traction Sub Station at Japla was commissioned on 16 April 1998 and the first bill for electricity consumption was received in May 1998. As per bill for April 1998, the maximum demand recorded was shown as 9,800 KVA which was around 178 per cent of the contracted demand. Although on a protest from the Railway, maximum demand for April 1998 was revised on the basis of 4,600 KVA, the bill for the month of May 1998 also indicated the maximum demand of 7,400 KVA. Again on protest by Railway, the bill was revised to 5,550 KVA and the payments were made accordingly. As the energy meter installed to measure the demand had become defective on 26 June 1998, the bills for the remaining period of 1998-99 were charged on the basis of average consumption of previous three months. However, in August 2002, BSEB raised an arrear bill citing the provisions of their tariff and taking a stand that the maximum recorded demand in April 1998 was 9800 KVA. The Railway paid the bills of Rs.1.19 crore under protest. Railway, however,

made no efforts to take up the matter with the BSEB for irregular charging till September 2004, after the issue was taken up by Audit in October 2003. Thereafter the matter regarding refund was pursued with the BSEB but no refund has been received.

In reply, the Railways stated (August 2006) that while calculating the maximum demand, BSEB had not applied the multiplying factor of 0.75. If the multiplying factor was applied, the excess payment would be only Rs.0.10 crore. They also stated that they had taken up the matter of refund with BSEB and that the BSEB had assured (September 2005) them of resolving the issue soon. No settlement of refund/adjustment of excess payment has, however, been made so far (December 2006).

The reply is not convincing because Railway had neither referred the matter of overcharging to the Electric Inspector in April 1998 when the bill for demand charges at 9800 KVA was received, nor at a later date when the meter had gone out of order in June 1998. Even when the revised bill for the year 1998-99 was received, no action was taken to take appropriate action as per provisions of the agreement.

Thus, the failure of the Railways to take up the matter of overcharging and defective meter with appropriate authority as provided in the agreement, resulted in excess payment of Rs.1.19 crore.

The matter was brought to the notice of Railway Board in October 2006; their reply was awaited (December 2006).

5.3.11 Northern Railway: Avoidable payment to Uttar Pradesh Power Corporation Limited

Avoidable payment of Rs.1.01 crore due to delay in payment of electricity bills

For two connections availed by the Railway Administration at Varanasi station under Rate Schedules LMV-1 and LMV-2 of Uttar Pradesh Power Corporation Limited (UPPCL), a rebate of 10 paise per kilowatt-hour was admissible for payment of bills along with arrears, if any, on or before the due date. This rebate was discontinued from October 2003. In case of delayed payments, a surcharge at the rate of 1.5 per cent per month (revised from December 2004 as 1.25 per cent for first three months and 1.5 per cent thereafter) was to be levied.

Audit test checked 351 bills of these electric connections (No.222693 – LMV-1 – 175 bills and No.16584 – LMV-2 – 176 bills) at Varanasi for the period July 1990 to March 2005. Of these, 200 bills were paid by the due date and 151 bills were paid after the due date (the extent of delay ranged up to 286 days). But rebate admissible for timely payment was, suo moto, deducted even in the case of delayed bills by the Railway. UPPCL naturally disallowed this rebate and claimed these amounts as arrears in subsequent electric bills along with surcharge for late payment. Further, due to non-payment of above arrears, the Electric Authorities disallowed the rebate admissible for timely payment even on the electric bills paid on or before due date. As a result, not

only did the Railway lose out on the rebate admissible for timely payment amounting to Rs.0.70 crore, but there was an accrual of Rs.1.00 crore against the surcharge for late payment.

Finally, in November 2004, when a 'One Time Settlement' (OTS) scheme was introduced for the clearance of arrears by paying 30 per cent of the accrual, the Railways paid Rs.0.31 crore in March 2005, against the accrual of surcharge of Rs.1.00 crore for the period July 1990 to March 2005. No action to investigate or fix any staff responsibility for delay in making payments has been initiated so far (December 2006).

Thus, the delayed payment of bills and suo-moto claim of rebate even against delayed payment has resulted in a total loss of Rs.1.01 crore (Rs.0.70 crore as forfeiture of rebate and Rs.0.31 crore as surcharge).

When the matter was taken up (January 2006), the Railway Administration accepted (May/ June 2006) the Audit contention and stated that UPPCL did not agree to segregate the bills paid in time and bills paid after due dates resulting in accumulation of arrears. These arguments are not tenable as the problem arose due to wrong claims by the Railways leading to a loss of Rs.1.01 crore.

The matter was brought to the notice of Railway Board in August 2006; their reply was awaited (December 2006).

5.3.12 Northern Railway: Avoidable payment due to delay in making 'advance consumption deposit'

Delay in payment of advance consumption deposit for reduction of Contract Demand resulted in avoidable payment of Rs.1.38 crore

Northern Railway gets electric energy from the Rajdhani Power Limited (BSES – erstwhile Delhi Vidyut Board) for its traction network at the Traction Sub-Station (TSS) at Chanakyapuri, New Delhi. With effect from December 1995, the contract demand (CD) for this TSS was 20 MVA. Normally, Railways have to pay 'demand charges' (DC) and 'fixed charges' (FC) at specified rates for CD. The then Delhi Vidyut Board decided (May 2000) that an 'Advance Consumption Deposit' (ACD) would be payable by all applicants/ consumers, including Government departments etc.

During 2000-01, due to a change in feeder line arrangements, there was a drop in the demand requirements of the Railway. After observing the fluctuations during 2001 to 2003, the Railway Administration finally approached the BSES in September 2003 for reduction of the CD from 20 MVA to 15 MVA. The BSES asked (March 2004) for a deposit of Rs.2.55 crore as ACD, against the existing sanctioned load of 20 MVA before considering the reduction.

Despite clear directives of the electricity authority issued in May 2000, the Railway Administration insisted on exemption from ACD on grounds of being a Central Government department and also approached the Delhi Electricity Regulatory Commission (DERC). However, DERC clarified in June 2004 that the Railways were also required to deposit ACD. It was only in March

2005,however, that the Railways finally deposited Rs.1.91 crore and obtained a reduction of CD.

The entire process of debating over this issue till final payment took more than one and a half years from the date of initial application for reduction of CD. Meanwhile, payment of charges continued as per CD of 20 MVA resulting in avoidable payment of Rs.1.38 crore for the period October 2003 to March 2005.

Thus, due to avoidable delay in initiating proposals for reduction of CD and thereafter in payment of ACD, in spite of clear provisions regarding the same, the Railways had to incur an additional expenditure of Rs.1.38 crore.

The Railway Board stated (November 2006) that all out efforts were made to get the ACD charges waived off. The reply cannot be accepted as the payment of ACD as per the provisions of BSES are clear and there was no question of not paying this amount.

5.3.13 East Coast: Loss due to failure to safeguard Railway property Railway

Railway negligence in protecting their property led to a loss of Rs.0.60 crore due to theft besides avoidable expenditure of Rs.0.29 crore.

As per section 11 of the Railway Protection Force (RPF) Act of 1957 the protection and safeguarding of Railway property rests with the RPF. Under section 41.2 of this Act, the RPF shall register all cognizable offences against railway property with the local police. The engineering code entrusts the responsibility of safeguarding and maintaining civil engineering assets with the Open line organisation of the civil Engineering department.

From 1981 onwards, water supply to the Carriage Repair Workshop, Mancheshwar and the adjoining residential colony was made through an 8.5 Km. pipe line from a pump house (including a water treatment plant and an electric substation) constructed on the bank of the river Kuakhai. The pump house was damaged in a super cyclone (October 1999) and the water supply remained suspended since then.

In February 2000, it was noticed by the Engineering department that 38 mtrs. of the pipe line costing Rs.0.01 crore were stolen. The matter was reported to the local Police and RPF and a case registered but with no further results. No arrangements were made thereafter to safeguard the remaining pipe line by either the Engineering department, the custodian of the property or the RPF. This paved the way for successive thefts and during the period from October 2004 to February 2005 more of the pipeline was stolen, involving at least four instances and 1,854 mtrs. of the pipeline. These instances were also reported in a routine manner. Totally 1,892 mtrs. of pipe valuing Rs.0.60 crore were stolen.

The Engineering department and RPF blamed each other for the lapses in safeguarding Railway's pipeline. The RPF stated that they had not been asked to provide security for safeguarding the pipeline. The fact remains that in spite of knowing the vulnerability of the pipe line no concerted action by the two departments was taken to safeguard railway assets and no instructions were

issued by the Divisional Railway Manager either, to safeguard the pipeline. Further loss could have been avoided if action had been taken immediately after the initial theft which was for a very small portion of the pipeline.

Rules also provide that any loss is to be reported to the Board and to audit but this too was not done. It is further noticed that though the pump house was defunct for more than six years, the minimum electric energy charges continued to be paid as the power line was not disconnected. A sum of Rs.0.06 crore was paid up to October 2005 without any fruitful utilisation of energy. Electrical staff were also continued to be deployed at the defunct pump house involving unproductive expenditure of Rs.0.23 crore up to November 2005.

Thus, failure to safeguard Railway's property and to curtail the unproductive expenditure led to a total loss of Rs.0.89 crore.

The matter was brought to the notice of Railway Board in September 2006; their reply was awaited (December 2006).