

CHAPTER VII : MINISTRY OF EXTERNAL AFFAIRS

7.1 Less collection of revenue due to incorrect adoption of exchange rate on fees/penalties charged towards renunciation of citizenship and misuse of passports

Incorrect adoption of prevailing official exchange rate by High Commission India (HCI) Ottawa and its Consulates in Toronto and Vancouver in June 2010 instead of the exchange rate for visa fees as required under the Manual and unwarranted downward revision of service fees for renunciation of Indian citizenship and penalty on misuse of passports later in March 2013, resulted in less collection of revenue of ₹ 27.01 crore.

According to Schedule IV of the Citizenship Rules 2009 which came into force from 25 February 2009, and Passport Manual 2010 (Chapter 29 para 5 (ii)), a service fees of ₹ 7,000 was to be charged for renunciation of citizenship abroad. Further, the Passport Manual 2010 (Chapter 29 para 5 (iv a and g)) prescribed a penalty of ₹ 10,000 for passport not surrendered upto three years, but used once for travel after obtaining foreign passport or when the passport is retained over three years. The manual further provides that the rate of exchange for collection of penalty in applicable local currency was the same exchange rate as being used for calculation/conversion of visa/other consular services. Further, as per practice, the exchange rate adopted for renunciation fees by the Missions is the same as used for penalty for misuse of passports.

Audit noticed (September 2014) that the rate of exchange used by the HCI, Ottawa and two Consulates under its jurisdiction, at Toronto and Vancouver for visa services was @ 1 Canadian Dollar (C\$)=₹ 29.23¹. However, instead of adopting the above exchange rate being used for visa services as prescribed under the Passport Manual, these Missions/Posts had applied the official exchange rate prevailing in June 2010 @ 1C\$=₹ 41.66² for local currency both for penalty and renunciation fees. Accordingly, HCI, Ottawa fixed (June 2010) the renunciation fees at C\$168 (₹ 7000/₹ 41.66) and penalty to be charged at C\$240 (₹ 10,000/₹ 41.66) instead of C\$ 240 ((₹ 7000/₹ 29.23) for renunciation fees and C\$343 ((₹ 10,000/₹ 29.23) for penalty as per the rate of exchange being used for visa services. The incorrect fees was applied to 17,664

¹ 1C\$=₹ 29.23 with effect from 1 March 2002 to 30 September 2012 used for visa services.

² 1C\$=₹ 41.66 - the prevailing exchange rate as in June 2010.

renunciation cases and 797³ misuse of passport cases during the period from June 2010 to February 2013. This has resulted in revenue loss of C\$ 13,53,899 (₹ 6.05 crore⁴).

The Ministry had revised (October 2012) Passport fees and Passport related services through Ministry's Gazette Notification. The Ministry, while referring to revised passport fees and related fees, issued further clarifications (October 2012/ December 2012) stating that the above Gazette Notification only covered passport fee and passport related services as enumerated therein and hence structure of consular fees would remain unchanged. The Ministry also advised (October 2012) the Missions that the fee in terms of local currency may be revised if the local currency depreciated against US dollar by 10 *per cent* or more. However, the fees may not be revised in the case of appreciation of local currency against US dollar.

Audit, however, observed (September 2014) that HCI, Ottawa and its Consulates in Vancouver and Toronto despite the above clarification issued by the Ministry had again made downward revision of service fees for renunciation from C\$168 to C\$126 and penalty on misuse of passports from C\$240 to C\$180 in March 2013 by applying the official exchange rate of October 2012⁵ (1C\$=₹ 018). The downward revision of service fees was applied to 27,057 renunciation cases and 5,125 misuse of passport cases during the period from 1 March 2013 to 22 January 2015. Thus, due to such incorrect downward revision on renunciation fees and penalty based on the prevailing official exchange rate, the Mission suffered a revenue loss of C\$ 39,19,873 (₹ 20.96 crore⁶).

In reply, the Mission (January 2015) stated that error in re-fixation of passport surrender fees and associated penalty was neither intentional nor an inadvertent lapse on Mission's part but on account of ambiguity in the instructions issued by the Ministry and delay by the Ministry in responding to Mission's request (October 2014) for clarification on this issue. The Mission further stated (September 2015) that fees had been revised after receipt of clarification from Ministry on 22 January 2015.

³ Consulate General of India, Vancouver did not provide data on misuse of passports for the period from June 2010 to December 2010.

⁴ Least exchange rate for the month of May 2011 1C\$=₹ 44.69 during the period June 2010 to February 2013 has been considered for calculating loss of revenue in terms of rupee.

⁵ ₹ 1 = C\$ 018 prevailing exchange rate as in October 2012.

⁶ Least exchange rate for the month of April 2013 1C\$=₹ 53.47 during the period March 2013 to January 2015 has been considered for calculating loss of revenue in terms of rupee.

The reply of the Mission is not acceptable as there was no necessity for the Mission to obtain clarification from the Ministry since the Passport Manual provisions were clear on the rate of exchange to be adopted. Further, the fact that other Missions test checked in Audit correctly followed the Passport Manual provisions in applying the exchange rate for renunciation fees and penalty for misuse of passports also indicates that there was no ambiguity in the Manual provision warranting any clarification.

The Mission correctly revised the renunciation fees and penalty for misuse of passports with effect from 23 January 2015 following clarification from the Ministry at the instance of Audit.

Thus, incorrect adoption of prevailing official exchange rate by the Mission and Posts in Canada in June 2010 and further unwarranted downward revision of service fees for renunciation of Indian citizenship, and penalties on misuse of passports in March 2013 resulted in revenue loss of (₹ 6.05 crore + ₹ 20.96 crore) ₹ 27.01 crore.

7.2 Undue benefit to the Service Provider

Permitting the Service Provider to handle fast track business visa with Service Charge at an arbitrary rate (Great Britain Pound 25) in place of normal service charge of GBP 7.70 resulted in undue benefit of ₹ 10.72 crore to the Service Provider during the period March 2010 to February 2015.

Financial Rules envisage that every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy and transparency in matters relating to public procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement. Further, a Ministry or Department may outsource certain services in the interest of economy and efficiency and it may prescribe detailed instructions and procedures for this purpose without, however, contravening the specified basic guidelines (Rule 178-Outsourcing of Services).

CVC vide circular no. 005/CRD/19 dated 5 July 2006 stipulated that all Ministries should maintain transparency in Works/ Purchase / Consultancy contracts and stated that tendering process or public auction is a basic requirement for the award of contract by any Government agency as any other method, especially award of contract on nomination basis, would amount to a

breach of Article 14 of the Constitution guaranteeing right to equality, which implies right to equality to all interested parties.

High Commission of India, London (Mission) entered into an agreement with VF Services (UK) Ltd, the Service Provider (SP) for various visa support services on 24 January 2008 for a period of five years. The agreement became operational on 29 May 2008.

As per the agreement, the SP was, amongst others, responsible for accepting visas application forms, accepting visa fees and paying the fee due to the Mission in Mission's bank account, scrutinizing the visa applications to ensure completeness, forwarding the complete applications along with passports to the Mission twice each day, collect processed applications from Mission twice each day, return passports to applicants, maintaining proper records, accounts, quality control system, security, telephonic enquiry system, progress tracking system and contingency plan. As per the agreement, the charges to clients were not to exceed the cost of the appropriate prescribed visa fee plus SP's Service Charge for each passport not exceeding GBP 6.90 per visa application. The amount of the SP's Service Charge was to remain fixed for the entire duration of the Agreement and was to be changed only if there was a change in the rate of local taxes or VAT. Accordingly, the SP's Service Charge was increased to GBP 7.70 in September 2011.

The Mission introduced (March 2010) the service of Fast Track Business Visa (FTBV) whereby business visa would be issued on same day on payment of additional visa fee and Service Charges. The Service Charges were to be collected and retained by the SP. The Mission fixed a Service Charge of GBP 25 for each such visa. The award of above additional work to the SP resulted in undue benefit to the SP for the following reasons:

- additional work was given to the existing SP (contractor) without competition, transparency and price discovery which was mandated by General Financial Rules and CVC guidelines;
- additional work of FTBV initially awarded without competition and price discovery was not reviewed for a long period of 5 years; The Mission continued outsourcing of this work at current rate (GBP 25 per application) despite the Ministry expressing its reservations in June 2013⁷,

⁷ Ministry's Egram No. 104 dated 28 June 2013

August 2013⁸ and May 2014⁹. The Ministry essentially disfavored outsourcing of FTBV and wanted the Mission to process such visas;

- Mission did not undertake due diligence in estimating the Service Charges. Initially, it proposed (August 2008) a Service Charge of GBP 50 which was later on reduced (October 2009) to GBP 25 without detailed estimation of cost, market survey and study; and negotiations with the vendor. The fact that the new SP had agreed to render the same service at normal Service Charges (GBP 7.44) with effect from March 2015 (new agreement) against the enhanced Service Charge of GBP 25 during 15 March 2010 to February 2015 points also Mission had arbitrarily fixed a Service Charge of GBP 25 in March 2010.
- the entrustment of additional work of FTBV did not entail any additional process/activity by the SP. The FTBV processing required collection of applications upto 1130 hours on each day, delivery of these applications to the Mission and collection of issued visas on the same day at 1600 hours. This schedule did not require extra investment as the SP was already responsible for delivery of applications and collection of passports twice each working day (timings to be determined by the Mission). The additional burden in issuing same day visa, if any, was on the Mission as they had to process all such cases on day to day basis.
- while going for a fresh tender for visa work in July 2013, the Mission omitted to include this item of work. This hampered price discovery and created uncertainty about continuity of services;

When the above facts were pointed out by Audit (August 2015), the Mission justified the levy of Service Charge by stating that the Service Charge of GBP 25 was approved by the Ministry. The Mission's contention is not acceptable due to the following reasons:

- The decision to award additional work was not in conformity with General Financial Rules and CVC guidelines.
- Ministry also did not agree to the Mission's proposal (July 2013) to consider continuation of present arrangement for handling FTBV through the SP with Service Charge remaining at the same level (GBP 25).

⁸ Ministry's Egram No. 132 dated 13 August 2013

⁹ Ministry's Email No. 2154/JS(CPV)/2014 dated 8 May 2014

Thus, the Mission's decision to award processing of FTBV cases at enhanced Service Charge of GBP 25 per case in place of normal Service Charge of GBP 7.70 resulted in undue benefit of ₹ 10.72¹⁰ crore to the SP from March 2010 to February 2015.

7.3 Award of work to a dubious firm

Failure to comply with laid down procurement process by the Embassy of India; Washington DC resulted in award of Annual Maintenance Contracts of IT equipment to a dubious firm and consequent irregular payment of ₹ 136.55 lakh by the Mission. Also, there was no credible evidence of service delivery for which payment was made indicating weak internal controls.

General Financial Rules (GFR) 2005 stipulate that invitation to tenders by advertisement (open tenders) should be used for procurement of goods or services, the cost of which has an estimated value of ₹ 25 lakh or above. Advertisement should be published at least in one national daily and the website of the organization.

Audit scrutiny of records of Embassy of India (Mission), Washington DC for the period January 2014 to February 2015 revealed (March 2015) that the Mission did not invite open tenders in the following two cases though the value of work was more than ₹ 25 lakh in each case. Further, in both the cases the work was awarded and the payment was released to a firm, whereabouts of which were not verifiable:

7.3.1 Annual Maintenance Contract of two servers and 16 desktops at Consular Section:

The Mission sent proposal (February 2012) for annual maintenance of two servers installed in Consular wing (HP Proliant ML370G5) purchased in August 2007 to the National Informatics Centre (NIC), New Delhi which advised (March 2012) for onsite comprehensive warranty of servers.

It was noticed in audit that the Mission simply obtained quotation from three firms viz., M/s Advance Technology Concepts (M/s ATC), M/s Geeks Everywhere and M/s Geeks Rx instead of inviting open tenders and constituting tender evaluation committee as per provisions of GFR. Audit observed that no bidding document was sent to the vendors specifying the requirements of the

¹⁰ 72006 Applications multiplied by GBP 17.3 (25 minus 7.70) as Service Charge per application is equal to GBP 1245703.80 or INR 107155440.87 (calculated @ GBP 1 = ₹ 86.02 being the Average Official rate of exchange for the period 2010-11 to 2014-15).

Mission. Audit also found from the quotations obtained by the Mission from the above firms that two firms were having the same address. Internet search in respect of the third firm in Audit revealed that the firm by this name did not exist at the address mentioned in the quotation. The amount of US\$ 4,470¹¹ quoted by M/s ATC was considered lowest and the contract was awarded to them on 23 April 2012.

Audit further noticed that even though M/s ATC was an IT Company, it neither had any website of its own nor could it be contacted through email printed in the invoices received. There were no copies of certificate of incorporation, Federal tax id number, IT security certification, qualification of the service engineers of M/s ATC. The sign-in sheets submitted by M/s ATC routinely indicated two visits per month to the Mission without details or signature of the service engineer who actually visited the site. There were no records of entry details of service engineers of M/s ATC in the Embassy premises. In the absence of evidence of procedure followed for rendering requisite services by M/s ATC, services offered by them remained unverifiable.

An amount of US\$1,56,450 (₹ 97.94 lakh¹²) was paid to M/s ATC (May 2012 to March 2015) towards the AMC of two servers and 16 desktops. The price of two servers purchased in August 2007 was US\$6,118. Thus the present cost of annual maintenance of servers works out to 705 per cent¹³ of the price of the servers which is exorbitant. Further, it was noticed that Ministry had accorded sanction in August 2012 to incur an expenditure of US\$ 53,640 for AMC for two servers and 16 Desktop computers for one year i.e., 2012-13. However, the Mission continued to incur unauthorized expenditure of US\$4,470 per month for the period April 2013 to March 2015 totalling US\$1,07,280 i.e. ₹ 67.16 lakh without the sanction from the Ministry (November 2015).

7.3.2 Procurement of the equipment for connectivity (CISCO ASA5510) and onsite support

National Informatics Centre (November 2012) issued guidelines for automatic Black List-updation for decentralized visa issuance sites wherein necessary equipment for connectivity to Indian Missions in Immigration, Visa and Foreigner's Registration & Tracking (IVFRT) Project were to be procured on

¹¹ (US\$ 3,595 per month for two servers and US\$ 875 per month for 16 desktops)

¹² Official exchange rate in March 2015 was One US\$=₹ 62.60

¹³ AMC @ 3595 x12/6,118 (price of two servers)

urgent basis by the Missions with five years comprehensive warranty and onsite support.

Audit observed that the Mission obtained quotations from three firms viz., M/s ATC, M/s New York Business Systems and M/s IGH Digital for procurement of the equipment for connectivity (CISCO ASA5510) and onsite support without following the required open tendering process for obtaining and evaluating bids though the value of procurement of service was US\$1,57,270.86 i.e., ₹ 98.45 lakh¹⁴. There was no record to indicate the date on which the quotation from M/s ATC was received. The contract was awarded (November 2013) to the lowest bidder M/s ATC for supply of equipment for ₹ 11.77 lakh (US\$18,670.86) and for onsite support at the rate of ₹ 1.43 lakh (US\$ 2310) per month for five years. Audit also observed that Mission had paid ₹ 11.77 lakh towards purchase of equipment in September/October 2013 and ₹ 26.84 lakh towards onsite support from November 2013 to March 2015. There were no sign-in sheets for the services rendered and no entry details of service engineers of M/s ATC in the Embassy premises for carrying out onsite support of the CISCO systems. In the absence of these details the maintenance service rendered by M/s ATC remained unverifiable.

It was further noticed in audit that the Ministry of Home Affairs had given sanction for onsite support for one year from April 2013 to March 2014 and no further sanction had been issued by the Ministry after 31 March 2014. However, the Mission incurred an expenditure of ₹ 17.51 lakh for onsite support after March 2014 to March 2015 without any sanction which was unauthorized (November 2015).

In response to above audit observations, Mission stopped the payments to M/s ATC for both the contracts after March 2015. As regards audit observations of the firm having no proper email id, the Mission accepted that there had been no response from that firm since March 2015. Mission further stated (October 2015) that at the instance of audit it had constituted a standing committee for purchases and issued strict instructions for adherence of GFR provisions and CVC guidelines. As regards audit observation on exorbitant payments to M/s ATC, the Mission stated that it was not technically equipped to evaluate the pricing of the contract and that the contract was awarded on the advice of NIC. The reply is not acceptable as only technical advice was sought from NIC and

¹⁴ cost of equipment plus five years onsite maintenance contract

the agency was not involved for evaluation of quotations. As regards audit observation on lack of evidence for service delivery, the Mission replied that one local employee who was the point of contact for the vendor failed to make log entries while taking the vendor inside the Embassy. After the matter was pointed out in audit, the Mission has outlined the security protocols for adherence. Further, the Mission could not provide the details of service engineer/s who visited the Mission for maintenance and certificate of incorporation, Federal tax id number, IT security certification of M/s ATC. Existence of the firm to which payments were made and delivery of services therefore, remains unverifiable.

Thus, the Mission failed to follow transparent, competitive and fair procurement process as required under GFR provisions which resulted in award of contracts to a dubious firm and consequent exorbitant payments of ₹ 136.55 lakh. Further, the expenditure of ₹ 84.67 lakh incurred on AMC of servers, desktops and networking equipment was not sanctioned by the Ministry and hence unauthorized.

7.4 Loss of revenue due to non-revision of Fee for Passport and related services

Failure to comply with the Instructions of the Ministry on revision of fees for Passport and related services by the High Commission of India, Kuala Lumpur resulted in loss of revenue worth ₹ 63.28 lakh.

Government of India vide gazette notification (September 2012) revised the fee for passport and related services to be effective from 01 October 2012. Thereafter, the Ministry clarified (October 2012) that the fee may be fixed in local currency adopting the official rate of exchange or the commercial/ bank exchange rate whichever is beneficial to the Government. It was further stated that the fee in local currency may be revised if the local currency depreciates against US dollar by 10 *per cent* or more.

The Mission fixed the fee for passport and related services in October 2012 adopting the exchange rate of 1 USD = RM 3.04.

Audit scrutiny of records revealed that in the period after October 2012, the depreciation in the currency against USD breached the 10 *per cent* mark of RM

3.38¹⁵ for the first time in January 2015. Thus, in compliance of instructions of MEA, the fee for Passport and related services should have been revised by the Mission by adopting the exchange rate of January 2015 i.e. 1 USD = RM 3.50. Audit noted that no action was taken by the Mission to revise the fees.

Mission accepted the audit observation (July 2015) and stated that the fee would be revised after approval of the Head of Mission. It was further stated that the fees could not be revised as inadvertently, the Mission did not realize that the local currency had depreciated by more than 10 *per cent*. The fee was revised with effect from 16 July 2015 by adopting the exchange rate as on 01 July 2015 i.e. 1 USD = RM 3.76.

Therefore, by revising the fee for passport and related services from 01 January 2015, the Mission could have earned an additional revenue of ₹ 63.28 lakh during the period January 2015 to 15 July 2015, if it was more vigilant and had exercised proper checks.

The matter was issued to the Ministry in October 2015, their reply was awaited as of February 2016.

Haj Committee of India, Mumbai

7.5 Non-payment of Service Tax

Haj Committee of India neither registered itself with the Service Tax Department nor paid Service Tax amounting to ₹ 7.09 crore on supporting services provided to haj pilgrims.

Section 66B of Finance Act, 1994, introduced w.e.f. 01 July 2012, provides for levy of service tax on the value of all services, other than those services specified in the negative list. Further Ministry of Finance, Government of India has issued notification No. 17/2014 dated 20/08/2014 duly exempting from payment of Service Tax for the Services by a specified organization including Haj Committee in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Government of India. Issuance of this Notification signifies that the HCOI was liable for payment of Service Tax for the periods between 01 July 2012 to 19 August 2014 since it was not covered in the negative list and after 20.08.2014 this service is fully exempted.

¹⁵ $(3.38-3.04)/3.38 \times 100 = 10.06 \text{ per cent.}$

The Haj Committee of India (HCOI) was constituted under the provisions of the Haj Committee Act of 1959 as amended in 2002 for making arrangements for the pilgrimage of Muslims for Haj and for matters connected therewith. Apart from collecting to and fro air fare, transport and other specified accommodation charges from the pilgrims, the Committee retains an amount of ₹ 1000/- from each pilgrim to defray their expenses on office logistics, correspondence with the pilgrims, organizing vaccination camps, accommodation and booking pilgrims at embarkation points etc. rendered as facilitators for their services from the pilgrims.

Audit observed that HCOI had retained fee of ₹ 57.36 crore during 2012-13 to 2014-15 (upto May 2014) from Haj pilgrims for providing supporting arrangements. As these services were neither covered under the negative list nor any exemption had been issued by the Ministry of Finance till August 2014, the HCOI was liable to pay service tax amounting ₹ 7.09 crore. However, it was noticed that the HCOI was neither registered with Service Tax department nor paid any service tax.

Ministry of External Affairs replied (December 2015) that the matter has been taken up with Department of Revenue, Ministry of Finance for issue of suitable notification exempting HOCI from payment of service tax from retrospective date i.e., from 1st July, 2012 on the services rendered to the Haj pilgrims.

No notification has been issued yet (January 2016).