Chapter 3: Individual Observations of Compliance Audit

AGRICULTURE DEPARTMENT

3.1 Functioning of Automatic Weather Stations

For establishment of Automatic Weather Stations (AWSs) to generate real time weather related information for farming purposes, from installation to its Annual Maintenance Contract, a private entity was allowed the technical autonomy. Poor maintenance of these AWSs, by the private entity, rendered these AWSs ineffective and as a consequence the intended objective could not be achieved.

Based on the requirement of the Agriculture Department (AD), under the Rashtriya Krishi Vikas Yojana (RKVY), for the year 2012-13, an outlay of ₹ 430.95 lakh was approved for establishment of Automatic Weather Stations (AWSs) in the State of West Bengal, with the objective to gather real time data for generating weather forecast for farming decisions. The entire fund of ₹ 430.95 lakh was sanctioned/ allotted (February 2013) by the AD in favour of the Joint Director of Agriculture (Accounts), Directorate of Agriculture (Directorate). The Directorate was to implement the project.

Scrutiny of records of the AD/ Directorate revealed the following:

i) An Agreement to execute the project of establishment of 145 AWSs within the agricultural farms of the Agriculture Department, was entered (July 2013) into by the Directorate with a private entity, namely M/s Express Atmospheric Science and Research Private Limited (EASRPL). The project was to be implemented in five components and termed as "Package-Work of AWS". As per Work Order, the project was to be completed within 75 days.

ii) A review of the Notice Inviting Tender (NIT[122]) disclosed that the same did not include the key issue of ownership of logic control[123] of these AWSs, reasons for which were not imminent from available records. However, from a communication (September 2015) of the private entity EASRPL, it was noticed that logic control of these AWSs were custom made by it and hence, ownership of these controls remained with them. So, any other agency would not be able to operate these AWSs as logic control would remain in control of the private entity EASRPL. This indicated that the technical autonomy remained with the private entity. Hence, ignoring this key issue while preparing the NIT and awarding the work to the private entity, indicated an act of undue over dependence on the part of the Directorate as well as the Agriculture Department, on the entity.

iii) It was observed that the tender was invited initially for 50 to 100 AWSs in April 2013 by the Directorate of Agriculture. EASRPL had offered the lowest rate of ₹ 1,45,07,600 for 50 AWSs (₹ 2,90,152 per AWS), which was accepted in June 2013. The work order was, however, issued for 145 AWSs for ₹ 4,16,94,750 (₹ 2, 87, 550 per AWS), to the private entity. Reasons for such variation, were not explained to Audit.

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[122] *published in April 2013*

[123] *Logic control represents the technicalities based on which, these AWSs were to function, it is the proprietary software of the entity*

iv) It emerged from a reply furnished (February 2021) by the Directorate that AWSs were installed[124] in the financial year 2013-14. Further, from a communication (November 2015) of the Directorate it was seen that 141 AWSs[125] were installed throughout the State and ₹ 4.05 crore (for 141 AWSs @ ₹ 2,87,550 per AWS) was paid to the private entity.

v) When details on the extent, nature and quantum of data generated through these 141 AWSs were sought for in audit, the Directorate stated (February 2021) that data generated through these AWSs, was available, pertaining to the period, when these had been functional or in operative state. The communication of the Directorate, however, did not share details about the period during which these AWSs were actually functional or data generated by these AWSs. Audit examination in this regard brought out the following:

- Agreement with the private entity for Annual Maintenance Contract (AMC) was entered into and work order issued by the Directorate, on 11 August 2016. As seen from the AMC, the private entity accepted the work of AMC for five years, which was to be renewed annually, subject to satisfactory providing of service. Of the fund of ₹ 41.40 lakh sanctioned by the AD in November 2016, ₹ 31.05 lakh[126] was paid to the private entity towards AMC.
- There were no Impact Assessment Reports found on record to indicate as to how AWSs were assisting in arriving at farming decisions and that data generated was helping to protect the crop yield, from adverse weather conditions. Moreover, there was nothing on record to indicate as to how the Directorate, had ensured that intended objective of setting-up AWSs was really fulfilled.
- After awarding the AMC, it was noticed that, no data could be obtained from these AWSs between 11 August 2016 and 09 January 2017, as the system remained non-functional. Though the system was functional between 10 February 2017 and May 2017, data generated was of poor quality. Again, the data services were seen to be stopped from 16 June 2017 to 30 August 2017. Despite being active from 31 August 2017, the data being generated through these AWSs were not reliable, as it was not in consonance with the actual situation and was not satisfactory. In the context of such poor performance, the AMC contract for 141 AWSs was cancelled by the Director of Agriculture, with effect from 09 February 2018. Thereafter, no AMC was entered into by the Directorate, with any entity.
- Further, in December 2017 the Directorate realised that the office address of the private entity was fake.
- Audit found nothing on record, to indicate that any steps were initiated to create a repository of dedicated human resources of its own, for handling the AWS system, though the work order had indicated that staff were to be trained up for this purpose. The reason as understood in audit, was that, the task of running these AWSs, was beyond the capacity of the AD. This indicated the over dependence on the private entity and thereby allowing

[124] *Specific dates of installation, were not available*
[125] *Four AWSs were not installed, due to non-availability of suitable location*
[126] *Residual fund was surrendered by the Directorate*

technical monopoly. Thus, it emerged from above that, right from the tendering stage for the award of a work of installation of AWSs, a private entity was allowed the technical autonomy/ monopoly. Poor maintenance services by the private entity, led to the functioning of AWSs being jeopardized. Consequently, all the 141 installed AWSs became ineffective and failed to ensure generation of real-time weather information for farming purposes and thereby in achieving its intended objective. Resultantly, expenditure of ₹ 4.36 crore incurred towards installation of AWSs and subsequent AMC charge hardly proved fruitful. Further, given the fact that West Bengal is a cyclone prone State, non-functioning of AWS and non-availability of real-time data for generating more accurate weather forecast, assumed further significance.

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

BACWARD CLASSES WELFARE DEPARTMENT

(WEST BENGAL SC ST & OBC DEVELOPMENT AND FINANCE CORPORATION)

3.2 Unfruitful expenditure on setting up of Career Consultancy Centres

An expenditure of ₹ 5.95 crore incurred by the Corporation for setting up of Career Paramarsh Kendra at each Sub-Divisional Headquarters remained mostly unfruitful as the objectives of extending career guidance and assistance to unemployed SC/ ST youths were not achieved.

With a view to extending career related guidance to unemployed SC/ ST youths, particularly those belonging to rural areas, West Bengal Scheduled Castes, Scheduled Tribes & Other Backward Classes Development & Finance Corporation (WBDFC) took up (September 2017) a scheme of Career Paramarsh Kendra (CPK). The scheme envisaged setting up of one CPK in each of the 67 Sub-Divisions of the State, preferably at the Sub-Divisional Headquarter station.

The cost involvement for the above scheme was to be met from the Special Central Assistance (SCA) to Special Component Plan and SCA to Tribal Sub-Plan.

The WBDFC, with approval of the Backward Classes Welfare (BCW) Department, entered (September 2017) into a tripartite Memorandum of Agreement (MoA) with National Institute for Micro, Small and Medium Enterprises (NIMSME) under the Ministry of MSME, Government of India as the strategic partner and an implementing partner[127].

Work orders (November 2017) were issued in favour of IIIML and NIMSME initially for setting up 30 CPKs in the first phase in 30 Sub-Divisions with 3,000 targeted candidates per centre at a total cost of ₹ 1,078.50 lakh as per the following break-up.

[127] *Indus Integrated Information Management Ltd. (IIIML), which was selected by NIMSME in view of its wide experience in skill development activities and being an NSDC (National Skill Development Corporation); NIMSME had already entered into a Memorandum of Understanding (MoU) with IIIML regarding services delivery of Skill Development Projects in different sectors.*

Table 3.1: Activity-wise break-up of cost analysis for CPK

Activity targeted at each of the CPK	Cost per centre (₹ in lakh)	Total cost for 30 CPKs (₹ in lakh)
1. Centre set up and its operation 2. Counselling of 3,000 candidates 3. Self-employment linkage of at least 500 candidates	17.95 (₹ 3.59 lakh payable to NIMSME, while IIIML was to receive ₹ 14.36 lakh)	538.50
1. Skill training of 150 candidates 2. Placement of at least 100 candidates	18.00	540.00
Total	**35.95**	**1,078.50**

Souce: Records of the WBDFC

Terms and conditions laid down in the work order read with the MoA showed that all the 67 CPKs were to be made operational within 2017-18 (30 CPKs starting from October 2017) and 2018-19 (remaining 37 CPKs).

Activities of the CPKs during the period from April 2018 to March 2019 revealed abysmally low performance under various parameters *vis-à-vis* the attainable targets:

Table 3.2: Analysis of performance of CPKs

Parameters	Target envisaged in the scheme	Actual performance	
Performance output *vis-à-vis* target			
Counselling of candidates	3,000 candidates per CPK *i.e.*, 90,000 candidates in aggregate	Candidates attended: 4,246 (Five *per cent* of target) Candidates counselled: 1,473 (Two *per cent* of target) Remaining candidates (2,773) were provided information only	
Self-employment linkage	500 candidates per CPK *i.e.*, 15,000 candidates in aggregate	1,300 no. of candidates opted for self-employment (Nine *per cent* of target)	
Skill training	150 candidates per CPK *i.e.* 4,500 candidates in aggregate	1,241 no. of candidates opted for skill training (28 *per cent* of target)	
Loan application received	100 candidates per CPK *i.e.* 3,000 candidates in aggregate	Nil	
Placement of candidates		Nil	
Deployment of staff by the Service Provider (IIIML)			
Deployment of Counsellors	60 (at the rate of two per CPK)	36 • *No Counsellor was deployed at all in five CPKs* • *Only one counsellor each was deployed in 12 CPKs*	Days of attendance of the personnel did not cross 50 *per cent*
IT Assistants	30 (One for each CPK)	20	
Registration Executive	30 (One for each CPK)	15	
Average monthly turnout	250 candidates per CPK per month (3000 candidates *per annum* per CPK)	15 to 20 persons per month	--

Souce: Records of the WBDFC and Department

Though it was the responsibility of the NIMSME to supervise the entire CPK activities including consultancy and support, it was observed that during the period of activities of 30 CPKs in 2018-19, the representatives of NIMSME had not visited 23 CPKs (77 *per cent*) at all and visited six CPKs only once.

Even the active involvement of WBDFC officials as envisaged in the scheme was missing and number of visit by District Manager (or any other officials authorised) was few and far between as under:

Table 3.3: Profile of visit of CPKs by officials

Total number of CPKs functioning	Number of days of visit during 2018-19				
	Nil	One day	Two days	Three days	Four days
30	07	07	08	06	02

Souce: Records of Corporation and Department

Thus, the scheme was allowed to be implemented by the implementing partner (IIIML) without any quality control and monitoring by NIMSME/ Corporation on a concurrent basis during the first year of operation.

For the first phase of the scheme covering 30 CPKs, the WBDFC released ₹ 5.95 crore to the NIMSME (₹ 141.91 lakh in February 2018 and October 2018) and IIIML (₹ 453.33 lakh during December 2017 to October 2019).

The WBDFC kept releasing payments to NIMSME and IIIML despite dismal performance of CPKs in terms of attainable parameters. As a result of deficient concurrent monitoring, the WBDFC could not pursue the matter either with the NIMSME or with IIIML for any remedial measure/ course correction.

However, after more than a year from commencement of functioning of CPKs, the WBDFC analysed (May 2019) that such dismal performance was attributable to (i) lack of visibility of accommodation selected for setting-up CPKs, (ii) insufficient publicity, (iii) inadequate deployment of manpower at CPKs and (iv) lack of supervision and monitoring on part of the consultant (NIMSME) and the Corporation. The WBDFC decided (May 2019) not to go ahead with remaining 37 CPKs and to terminate the agreement executed with IIIML and NIMSME by June 2019 and start exploring proper accommodation at the office premises of respective Sub-Divisional Officers where 30 CPKs were operating.

Thus, an expenditure of ₹ 5.95 crore on the project of setting-up Career Paramarsh Kendra at each Sub-Divisional Headquarters for extending career guidance and assistance to unemployed SC/ ST youths remained mostly unfruitful as the objectives were unachieved. The failure was largely attributable to lack of active pursuance by the WBDFC and the Strategic partner in making the centres visible and widely publicised among target population, coupled with deficient performance of the implementing agency.

The matter being pointed out by Audit, the WBDFC accepted (March 2021) that the impact of CPK was far below expectations. While reiterating the reasons for the failure, it also attributed this failure to additional factors of general apathy among common people and incompetence of deployed personnel. The WBDFC also added that taking lessons from the failure of the first phase, the scheme was remodelled minimising dependence on service provider and by setting-up the new centres namely Information Service Centre (ISC) within the campus of SDO Office.

The BCW Department, while endorsing the reply of the WBDFC accepted (March 2021) the fact of failure of the CPK scheme and intimated that the new scheme was yet to be implemented owing to pandemic situation.

The reply may be viewed with the fact that as per scheme proposal outlined by the WBDFC, the new centres (ISCs) were primarily mandated with mere activities of internet kiosk[128] rather than career guidance envisaged under CPKs.

[128] *Helping candidates on online application, fees payment, net surfing/ downloading facilities, enquiry on examination results, photocopying/ scanning, instant photographs, uploading Curriculum Vitae, etc.*

Though the proposed ISCs would *inter alia* do counselling and would record skill training/ self-employment needs of the candidates, the same would not be the primary activities unlike the CPKs. Moreover, aspects like skill training, self-employment linkage, apprenticeship training, on-the-job training, gap training, *etc.*, remained absent. Hence, the core objective of providing guidance/ assistance to unemployed SC/ ST population remains unaddressed even after incurring an expenditure of ₹ 5.95 crore.

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

CONSUMER AFFAIRS DEPARTMENT

3.3 Avoidable expenditure towards rent of unused office space

Avoidable expenditure of ₹ 1.52 crore towards lease rent of the vacant space by Directorate of Consumer Affairs and Fair Business Practices.

West Bengal Financial Rules (WBFR) stipulates that every Officer incurring or authorising expenditure from public funds should be guided by high standards of financial propriety, which *inter alia* includes that every Public Officer is expected to exercise the same vigilance in respect of expenditure incurred from public money as a person of ordinary prudence would exercise in respect of expenditure of his own money. WBFR also stipulates that to control expenditure, strict economy was to be maintained.

The office of the Directorate of Consumer Affairs and Fair Business Practices (Directorate) under the Consumer Affairs Department along with some other subordinate offices was functioning from three hired floors[129] (4th, 6th and 7th floors) in a private building in Kolkata. In December 2013, the office of the Directorate, which had been functioning from the 6th floor (with 2,555 sq ft area), shifted itself to a nearby Government premises leaving that floor vacant.

The Directorate, however, did not vacate the floor. Instead it entered into a lease agreement (February 2015) with the private owner of the premises to formalize the occupancy of all three floors for a period of five years (retrospectively from March 2011 to February 2016). As per agreement, monthly lease rent (₹ 60 per sq ft with applicable service tax) was to be paid by the Directorate for occupying the premises.

Even after expiry of the agreement period, the Directorate did not de-hire the vacant 6th floor, though there was provision in the lease agreement for such de-hiring after giving three months' notice. Instead, it renewed the lease[130] for the vacant 6th floor (along with other floors) for a further period of five years with effect from March 2016 at a monthly rent of ₹ 72 per sq ft with applicable service tax. Reasons for retaining the unused 6th floor were not on record.

Records showed that a proposal was initiated by the Director of Consumer Affairs and Fair Business Practices only in November 2017, *i.e.*, after a lapse of 46 months from the 6th floor falling vacant, to shift Kolkata Central Regional Office to the aforesaid vacant floor of the premises. In May 2019, *i.e.*, after

[129] *measuring 7,169 sq ft (4th floor: 2,050 sq ft, 6th floor: 2,555 sq ft and 7th floor: 2,564 sq ft)*

[130] *This time, with another private agency, as ownership of the aforesaid premises had changed in the mean time*

17 more months from initiation of the proposal, the Assistant Director of the Regional Office visited the vacant floor and reported to the Directorate that the floor needed cleaning and carrying out of repair works before shifting.

As of December 2020, the floor was lying vacant and the Directorate continued to pay rent for the vacant floor. The Directorate paid ₹ 1.52 crore towards lease rent for the unutilised 6th floor for the period from April 2014 to June 2020.

The Assistant Director (Accounts) (the DDO of the Directorate) accepted the facts and stated (December 2020) that it would have been hardly possible to get the required space at such an important place, had it not been occupied earlier. The response was not acceptable, as not only the floor remained vacant for more than six years, but also efforts for utilising the space was not pro-active.

Thus, the Directorate could not put to use an entire vacant floor of a leased office premises in Kolkata over a period of more than six years and shouldered an avoidable expenditure of ₹ 1.52 crore. In this way, the extant provisions of maintaining strict economy also stood violated.

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

FOOD & SUPPLIES DEPARTMENT

3.4 Avoidable payment of Income Tax and interest thereon

Persistent belated filing of Income Tax returns coupled with delayed payment of advance tax resulted in an avoidable burden of ₹ 1.07 crore by the West Bengal State Warehousing Corporation.

Section 139 (1) of the Income Tax Act 1961 (Act) stipulates that all Corporate Assessees should file their Income Tax returns (ITRs), on or before the prescribed due date. Section 72 of the Act provides for carry forward and set off of business losses with business profits for adjustment against future business profits for a period of eight years. Section 80 of the Act, however, prevents carry forward and set off of business losses against future income, if the assesse had not filed the IT return for the financial year in which the loss was incurred within the stipulated due date.

In terms of the section 208 of the Act, every assessee was required to pay advance tax, if the tax payable during a financial year was ₹ 10,000 or more. Further, as per section 234B of the Act, if the assessee failed to pay such tax or the advance tax paid was less than 90 *per cent* of the assessed tax, then assessee would be liable to pay simple interest at the rate of one *per cent* per month for the period from 01 April of the Assessment Year (AY) to the date of determination of total income, on the amount of shortfall. Furthermore, as per section 234C of the Act, the assessee was required to pay 15, 45, 75 and 100 *per cent* of the tax due on or before 15th day of June, September, December and March respectively of the financial year concerned. Failure to deposit the advance tax as per the prescribed schedule would attract simple interest at the rate of one *per cent* per month on the amount of shortfall.

Scrutiny (April 2018) of available ITRs and connected documents pertaining to AYs 2007-08 to 2017-18 filed by the West Bengal State Warehousing

Corporation[131] (WBSWC) with the Income Tax authorities (IT authorities) revealed that it failed to comply with the aforesaid provisions of the Act in the manner as detailed below:

- WBSWC filed its ITRs[132] for the AYs 2007-08, 2009-10 and 2011-12. Total income for AY 2007-08 was assessed by the IT authorities at ₹ 53,34,043.00 after adjusting the brought forward losses of ₹ 85,07,890.00 pertaining [133] to AYs 2003-04 and 2006-07. For AY 2009-10 the total income was assessed by the IT authorities at ₹ 35,54,939.00. Regarding AY 2011-12, the WBSWC, filed a total income of ₹ 1,76,85,184.00.
- The carry forward losses of AY 2004-05 (₹ 62,09,993.00) and AY 2005-06 (₹ 63,88,157.00) totalling to ₹ 1,25,98,150.00, though available as per Section 72 of the Act, were not allowed to be adjusted by the IT authorities against the taxable income of the AY 2007-08 (₹ 53,34,043.00) and AY 2009-10 (₹ 35,54,939.00) and for AY 2011-12 [134] (to the extent of ₹ 37,09,168.00), totalling to ₹ 1,25,98,150.00, as there were delays in submission of IT returns for both the AYs (2004-05 and 2005-06), which violated the Section 80 of the Act.
- As a result, the Income Tax assessed [135] against the amount of ₹ 1,25,98,150.00 was ₹ 52,21,940 (AY 2007-08: ₹ 25,47,871.00, AY 2009-10: ₹ 14,41,883.00 and AY 2011-12: ₹ 12,32,186.00). In this way, the WBSWC had also violated both Sections 139 (1) and 234B of the Act. WBSWC made the avoidable payment of Income Tax of ₹ 52,21,940.00.
- Further, for the AYs 2012-13 to 2017-18, the WBSWC failed to pay the advance Income Tax instalments in time, in keeping with the stipulations of Sections 208, 234B and 234C of the Act, and consequently had to shell out an avoidable interest[136] aggregating[137] ₹ 54,67,298.00.

On these being pointed out, the WBSWC stated (March 2020) that a Tax Consultant has been engaged to look into matters relating to Income Tax and also all necessary steps would be initiated to avoid any interest as penalty in future. WBSWC, in September 2020, stated that from 2017-18 onwards, advance Income Tax was being deposited in due time. WBSWC has also conveyed that Income Tax returns were now submitted in due time and that there was no outstanding Income Tax demand, as on date. Views of WBSWC were endorsed (September 2020) by the Food and Supplies Department. Responses when viewed in the backdrop of instances pointed out in these observations, were not acceptable, as such recurring trend of belated filing of IT returns and non-timely payment of advance tax, clearly indicated absence of a proper monitoring and internal control mechanism during the period referred

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[131] *Government of West Bengal and Central Warehousing Corporation are two shareholders with 50 per cent shareholding of each.*

[132] *There was no taxable income for the AY 2008-09 and AY 2010-11*

[133] *AY 2003-04: ₹55,47,960 and AY 2006-07: ₹29,59,930*

[134] *₹ 1,25,98,150.00 – (₹53,34,043.00 + ₹35,54,939.00)*

[135] *This includes interest of ₹ 9,04,528.00 (AY 2007-08) payable under Section 234B of the Act, Interest component of AY 2009-10 payable under Section 234B of the Act, could not be segregated*

[136] *AY 2012-13: ₹3.33 lakh, AY 2013-14: ₹4.20 lakh, AY 2014-15: ₹3.77 lakh, AY 2015-16: ₹1.12 lakh, AY 2016-17: ₹34.12 lakh and AY 2017-18: ₹8.13 lakh*

[137] *Interest levied under Section 234B: ₹17,81,598.00 and Section 234C: ₹36,85,700.00*

to in these observations and also had resulted in avoidable financial burden of ₹ 1.07 crore [138] on the WBSWC. Moreover, in AY 2017-18 also, advance Income Tax was not paid in time, as has been discussed here, though the reply has referred to payment of advance Income Tax in 2017-18 within due time.

Such trend of belated filing of Income Tax returns coupled with non-timely payment of advance tax not only indicated the lack of a proper monitoring & internal control mechanism but also resulted in an avoidable burden of ₹ 1.07 crore on the WBSWC.

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

3.5 Excess expenditure on procurement of sugar for PDS supply

Cancellation of a valid tender on flimsy ground by the Food & Supplies Department for procurement of sugar for Public Distribution System supply setting aside recommendation of the Tender Selection Committee, led to an excess financial burden of ₹ 20.84 crore on the State exchequer.

According to decision (May 2013) of Government of India (GoI), sugar was to be distributed through the Public Distribution System (PDS) under Antyodaya Anna Yojana (AAY) and to the priority households at the retail issue price not exceeding ₹ 13.50 per kg. Further, GoI would reimburse the subsidy at the rate of ₹ 18.50 per kg based on the actual utilization/ distribution of sugar under PDS with effect from June 2013. The procurement of sugar was to be undertaken by the States.

Government of West Bengal (GoWB) engaged West Bengal Essential Commodities Supply Corporation Limited (WBECSCL) for procurement of sugar in the State. Accordingly, WBECSCL invited e-tender (October 2015) for procurement of S-30 sugar[139] for six months (December 2015 to May 2016). Out of seven participating bidders, one Rika Global Impex Ltd. (RGIL) was the lowest bidder with quoted rate of ₹ 33,289 per Metric Tonnes (MT).

As the lowest rate was higher than the sum of retail issue price (₹ 13.50 per kg) and the GoI subsidy (₹ 18.50 per kg) necessitating expenditure from State exchequer[140], WBECSCL decided to negotiate with the lowest bidder. On negotiation, RGIL first agreed (16 November 2015) to supply sugar at ₹ 33,089 per MT. On further negotiation, RGIL further brought down (24 November 2015) the rate to ₹ 31,999 per MT for first three months (December 2015 to February 2016), while for the next three months (March 2016 to May 2016), it agreed to supply sugar at original quoted rate, *i.e.*, ₹ 33,289 per MT. However, they agreed to this arrangement subject to the condition that Government was to place work order for entire six months at a time and ensure release of payment within seven days of submission of the invoices.

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[138] *₹52,21,940.00 + ₹54,67,298.00*

[139] *S-30 Sugar: It should be crystalline, white, odourless and free from dirt, iron fillings and other extraneous matter*

[140] *Retail issue price (RIP) of sugar will not be more than ₹ 13.50 per kg. GoI will reimburse the subsidy at the rate of ₹ 18.50 per kg based on the actual utilization/ distribution of sugar under PDS. Hence, any rise in procurement price more than ₹32 per kg (i.e., ₹13.50 + ₹18.50), the State Government has to reimburse the excess cost of procurement to WBECSCL.*

The Tender Selection Committee also recommended (27 November 2015) for acceptance of rate offered by the RGIL including the conditions. The Committee anticipated that going for fresh tender in cancellation of the existing one might lead to increase in offered price.

WBECSCL, in persuasion of the resolution of the meeting (22 December 2015) chaired by the Hon'ble Minister-*in*-Charge and to avoid disruption in distribution of sugar in PDS, started placing orders in favour of RGIL for supply of sugar for January 2016 and February 2016 and procured 10,482.589 MT sugar at the rate of ₹ 31,999 per MT and ₹ 33.54 crore was paid to them within 11 to 33 days of submission of the invoices. However, no formal agreement was executed with RGIL.

Records showed that WBECSCL recommended (December 2015) to the Food & Supplies (F&S) Department for non-acceptance of the offer of RGIL on the ground that by asking for expeditious payment, the supplier had violated the preconditions of the tender. The F&S Department decided (December 2015) to close the tender.

A fresh tender was called (28 December 2015) in which seven bidders participated. Once again RGIL was the lowest bidder with offered rate ₹ 38,932 per MT. This tender was also cancelled by the WBECSCL since the rate was on higher side than their previous tender.

Thereafter, another e-tender was again (12 February 2016) invited for six months from the date of execution of agreement. The Alliance Grain Traders (India) Pvt. Ltd. offered the lowest rate of ₹ 38,748 per MT of S-30 sugar, which was reduced to ₹ 38,648 per MT on negotiation. The authority initially accepted the above rate for two months (March 2016 to April 2016) and continued the above tender up to August 2016. Records showed that for the months of March-May 2016, WBECSCL procured 38,887.233 MT sugar at the rate of ₹ 38,648 per MT and paid ₹ 150.29 crore. Had WBECSC accepted the final offer of RGIL, the price of sugar could have been restricted to ₹ 33,289 per MT for March-May 2016.

It was evident from whole gamut of fact that the decision for closing the valid first tender (which yielded the lowest rate) setting aside recommendation of the Tender Selection Committee, lacked sufficient justifications. The rates offered by RGIL at the first instance as well as rate offered after first negotiation was both unconditional; conditions were laid only during second stage of negotiation, when the WBECSCL insisted for bringing the price further down. Apprehension recorded by the Committee for possible rise in price in fresh tender was also ignored by the both WBECSCL and Food & Supplies (F&S) Department.

Thus, cancellation of first tender ignoring the recommendation of the Tender Selection Committee, resulted in an excess expenditure of ₹ 20.84 crore[141] (38,887.233 MT sugar with a price differential of ₹ 5,359 per MT) towards procurement of sugar for three months from March 2016 to May 2016.

[141] *From March, 2016 to May, 2016, the excess expenditure of ₹ 20,83,96,682 {3,88,872.33 quintals x (₹ 3,864.80 minus ₹ 3,328.90=₹535.90}*

The F&S Department, in reply, stated that two completely transparent attempts were taken to explore new competitive rates. It was also pointed out that RGIL also participated in the subsequent tender with much higher rate.

The reply of the F&S Department is not acceptable as the second tender was not required and owing to which, cost of ₹ 20.84 crore, had to be borne additionally.

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

3.6 Rice meant for Public Distribution System becoming un-issuable owing to prolonged storage followed by delay in disposal

12,257.99 MT of CMR, procured during Kharif Marketing Season 2016-17 at a cost of ₹ 30.50 crore, deteriorated owing to prolonged and improper storage.

For distribution of rice through the Public Distribution System channel, the Food & Supplies (F&S) Department arranges to purchase paddy from farmers. After getting the paddy converted into rice (referred as Custom Milled Rice – CMR) by empanelled rice mills, the rice is stored either at various godowns hired by the District Controllers of Food & Supplies (DCFS) or MR distributors or Government godowns managed by West Bengal State Warehousing Corporation/ Central Warehousing Corporation.

As per the General Guidelines, the Directorate of Inspection & Quality Control (I&QC), F&S Department was to ensure periodical Quality Control checking of all storage godowns including Quality Control treatment, wherever necessary, through inspecting officials trained in Quality-Control (QC) activities and posted under DCFS. Besides, proper stacking norms and inventory protocol[142] were to be followed.

Scrutiny of records of DCFS, Jalpaiguri showed that at the beginning of the Kharif Marketing Season (KMS) 2016-17 there was an opening balance of 43,976 Metric Tonnes (MT) of rice from the previous KMS (*i.e.,* KMS 2015-16). For KMS 2016-17, the F&S Department had set a target for procurement of 2,01,200 MT of paddy in Jalpaiguri district, against which 1,52,091 MT (76 *per cent* of target) of paddy was procured.

On further scrutiny of records[143] as made available to audit by the DCFS, Jalpaiguri and the Directorate of District Distribution, Procurement & Supply (DDPS), it was observed that as of June 2018, condition of a total stock of 14,790 MT of rice (procured during KMS 2016-17) lying in different Government/ MR Distributor godowns in Jalpaiguri district, had started deteriorating. Of the same quantity, only 625 MT (four *per cent*) of rice was in issuable condition, while 12,386 MT (84 *per cent*) could have been issued only after upgradation. The remaining 1,779 MT (12 *per cent*) of rice was declared as Non-Issuable, *i.e.,* not fit for distribution through PDS. The Committee, headed by the District Magistrate, assessing the upgradation of the rice as

[142] *Stack height must not normally exceed 20 layers in order to avoid damage of bottom layer of rice stacks. Inventory was to be maintained following First In First Out (FIFO) protocol.*

[143] *Report submitted by a District Committee formed by the F&S Department for assessing the quality of old stock of rice lying at different godowns. The Committee had the District Magistrate, Jalpaiguri as Chairperson, DCFS, Jalpaiguri as Convenor while the Deputy Director of District Distribution, Procurement & Supply (DDPS) and representative of Director of Quality Control were Members.*

un-economical, proposed (June 2018) to the F&S Department for disposal of deteriorated rice of 14,165 MT (14,790 MT *minus* 625 MT) through auction as per procedure after categorisation as early as possible to avoid losses and to get maximum return from it.

As regards, quality control exercise in godowns, in spite of repeated pursuance, neither the DCFS, Jalpaiguri nor the Directorate of I&QC furnished any details in respect of scientific quality control exercise and monitoring performed on the rice stored in different godowns. It was, however, observed that inspection (June 2017) of I&QC Directorate had disclosed various systemic and performance deficiencies[144] in quality control exercises at different godowns in Jalpaiguri district including those where rice was damaged.

DCFS, Jalpaiguri also intimated (December 2018) the Directorate of I&QC that treatment of the old stock of rice (KMS 2016-17) through cleaning & blending process was not possible due to lack of required infrastructure at the district level. As such, the Director was requested for necessary arrangement/ instruction for disposal of the old stock of rice.

In December 2018, Categorisation Committee categorised 1,864 MT rice as issuable and 12,494.88 MT of rice[145] as non-issuable. As per assessment done (June 2018) by the Office of the DCFS, Jalpaiguri, the minimum reserve price of the non-issuable rice worked out to ₹ 2,164 per quintal. The Additional Secretary, F&S Department instructed (January 2019) the DM, Jalpaiguri for disposal of old stock of rice. However, no disposal process was initiated.

Again in December 2019, the Categorisation Committee once again assessed the condition of the old undisposed stock of rice and identified 12,257.99 MT of rice as non-issuable. Based on assessment made in June 2018, value of 12,257.99 MT non-issuable rice worked out to 26.53 crore [146], while its Acquisition Cost [147] stood at ₹ 30.50 crore [148] (actual cost incurred on the deteriorated quantum of rice was not available). Of the same, 5,380.14 MT of rice was categorised as Feed-I (damaged rice, not fit for human consumption) category, 1,485.37 MT as Feed-II (cattle feed), 84.29 MT as Feed-III (poultry feed) while 5,308.19 MT of rice was usable only for Non-edible Industrial Use.

During January/ February 2020, *i.e.*, after 20 months from the proposal of the District Committee for disposal of deteriorated stock of rice, the Department initiated for e-auction of deteriorated rice in Jalpaiguri. It was intimated by the F&S Department in March 2021, that ₹ 7.49 crore had been received through e-auction conducted in two phases, while completion of third phase was awaited.

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[144] *There was no classification/ categorisation register; no stock card present; leakage from roof was found which required immediate repair; Chemical treatment of godowns was not done properly; No Quality Control equipment was present except moisture meter; use of poor quality (2nd hand) gunny bags and there was no scope for cross ventilation in the godowns.*

[145] *Though the Categorisation Committee categorised 12,494.88 MT of rice as non-issuable, however, as per Report of DCFS, Jalpaiguri communicated (March 2019) to the Directorate, the non-issuable quantity was actually 12,301 MT*

[146] *12,257.99 MT X ₹2,164.00 per quintal*

[147] *Acquisition cost is fixed by the GoI and includes Minimum Support Price, market fees, transport cost, custody/ maintenance charge, two months' interest charge, milling charge and takes into account milling outturn ration of 68 per cent*

[148] *12,257.99 MT X ₹ 2,488.17 per quintal*

The matter being flagged by Audit, the Director, DDPS stated in August 2020 (reply endorsed by the F&S Department) that primary aim of procurement operations was to save the farmers from distress sale. It was also pointed out that there had been excess procurement of paddy in KMS 2015-16 (1,48,656 MT procured against a target of 90,180 MT) which had led to accumulation of stock and stock of KMS 2016-17 remaining undistributed as the older stock were distributed first. It was further pointed out (August 2020) by the Directorate that the quantum of actual procurement depended on actual production of paddy. It was also contended by the Directorate that Food Corporation of India (FCI) had been requested a number of times to take more quantum of rice during KMS 2016-17, which was not acceded to.

However, the reply itself, *inter alia* indicated that during KMS 2015-16, there was overall shortfall in procurement in the State (38.57 lakh MT procured against targeted 44.12 lakh MT). The response of the Directorate/ Department did not address the core issue of non-distribution of rice (un-distributed in Jalpaiguri) among other Districts and deficiencies in scientific management of stock of rice in godowns. Moreover, during cross-verification by Audit, FCI authorities stated (September 2020) that DCFS, Jalpaiguri had offered to supply only 1,493 MT of rice to FCI during KMS 2016-17, but failed to supply even that quantity in full within the due date. The response was also silent on delay in disposal of deteriorated rice, which led to further deterioration leading to non-issuable quantum of rice increasing from 1,779 MT in June 2018 to 12,257.99 MT in December 2019.

Thus, 12,257.99 MT of CMR (Acquisition Cost: ₹ 30.50 crore) procured during Kharif Marketing Season 2016-17 became unfit for human consumption due to prolonged storage coupled with improper quality control activities. The same was followed by inordinate delay in the disposal of the deteriorated stock even after instructions from the F&S Department.

The matter was referred to the Government in August 2021. F&S Department endorsed (September 2021) detailed replies (September 2021) of the DDPS. The fact of 12,257.99 MT of rice becoming non-issuable was admitted in the reply. In the reply, it was mentioned that primary aim of procurement operations was to save the farmers from distress sale, so quantity of procurement was dependent on actual production of paddy. It was pointed out that, as a consequence, there had been excess procurement of paddy in KMS 2016-17 (1,52,091 MT procured against requirement of 68,500 MT), which had led to accumulation of stock of KMS 2016-17, as the older stock was distributed first. It was further pointed out that the FCI did not receive rice on many occasions, for which there were no formal communications on record. It was also pointed out that even after proper treatment, such rice became non-issuable. The reply also indicated that a standard operating procedure (SOP) for storing foodgrains was put in place, since June 2019 and through this SOP, strict vigilance regarding quality of rice was being maintained over each and every godown. The reply, in respect of delay in disposal of non-issuable stock, attributed the same to Corona pandemic and lockdown. Regarding disposal through e-auction, the reply stated that ₹ 14.16 crore had been realised and the residual realisable amount of ₹ 0.08 crore was to be shortly realised.

The reply lacked tenability on the following counts a) inspection (June 2017) undertaken by the I&QC Directorate had disclosed various systemic and performance deficiencies in quality control exercises at different godowns in Jalpaiguri district including those where rice was damaged, b) introduction of a SOP by the F&S Department for storage of foodgrains indicated that there was lacunae in the process of overseeing of storage of rice, especially from quality angle, which required streamlining and c) delay in disposal of the non-issuable stock could not be attributed to the Corona pandemic, as e-auction process was initiated by the F&S Department in January/ February 2020, after 20 months from the month of initiation of proposal by the District Committee.

(WEST BENGAL ESSENTIAL COMMODITIES SUPPLY CORPORATION LIMITED)

3.7 Deficient monitoring leading to non-receipt of rice against payment of Minimum Support Price

Deficient monitoring on the part of WBECSCL (CMR agency) and inspecting officials of Food & Supplies Department resulted in non-receipt of custom milled rice against payment of MSP of ₹ 2.19 crore.

For distribution of rice through the Public Distribution System channel, the Food & Supplies (F&S) Department arranges to purchase paddy at Minimum Support Price (MSP) directly from farmers through designated agencies. The designated agencies engage Paddy Procuring Co-operative Societies (Societies) for procuring paddy from farmers at MSP. After procurement, the paddy is converted into Custom Milled Rice (CMR) by empanelled rice mills. The paddy procuring societies and rice mills are empanelled by the designated agencies with approval/ concurrence of the State Government. Tripartite agreements were to be signed by the designated agency with empanelled societies and rice mills. Expenditure made by the designated agencies are reimbursed by the F&S Department on receipt of claims supported by documentary evidences.

As per modalities stipulated by the Government order as well as mentioned in the agreement, paddy was to be procured by the Societies from the farmers (by issuing account payee cheques to each farmer). Acknowledgement against the payment was to be obtained from farmers on Muster Rolls in presence of representative of the agency and duly verified by Inspecting Personnel of F&S Department/ Co-operation Department/ any other officer nominated by the Government.

The West Bengal Essential Commodities Supply Corporation Limited (WBECSCL), is a designated agency in West Bengal for procurement of paddy. For the Kharif season 2015-16, it entered into agreements with empanelled Societies and rice mills.

(I) For procurement operations in Birbhum district during Kharif season 2015-16, WBECSCL entered into agreement with Society A and rice mill B in March 2016. Records showed that the rice mill was a newly empanelled one.

As per Muster rolls 11,586.96 quintals of paddy were procured between March 2016 and June 2016 from 466 farmers. However, cheques were issued only to 444 farmers, whereas paddy was procured on credit from the remaining 22 farmers, which was highly irregular. It also represented lack of monitoring by the district level functionary of WBECSCL as well as inspecting staff of F&S Department. Active monitoring was a pre-requisite for ensuring on-spot handing over of cheques to farmers.

It was further observed that out of 444 cheques drawn during March 2016 and May 2016 in favour of farmers, 391 cheques worth ₹ 1.38 crore were dishonoured. The other 53 cheques were, however, duly encashed.

Records of WBECSCL showed that in April 2016 (*i.e.*, after procurement operation had started), the District Procurement Officer of WBECSCL moved the District Controller of Food & Supplies, Birbhum to investigate the status of the rice mill. The Inspecting Official reported that there was no existence of the mill B at the address quoted by it while applying for empanelment. No CMR was received by WBECSCL against the above paddy.

On complaints being lodged by the aggrieved farmers, WBECSCL, released (May 2017) ₹ 1.45 crore to 413 farmers (391 farmers with bounced cheques *plus* 22 farmers who had sold paddy on credit) by bank transfer.

(II) In Paschim Medinipur, the WBECSCL entered into agreements (February 2016) with two procurement Societies and two rice mills for procurement operations.

Records showed that two Societies procured 8,152.90 quintals of paddy from 370 farmers. It was, however, observed that out of those 370 farmers, 288 farmers did not receive price (₹ 0.72 crore) of their paddy. The District Magistrate (DM), Paschim Medinipur further intimated that there were nine more farmers who did not receive any price (₹ 1.70 lakh) of their paddy.

There were lapses on the part of WBECSCL as well as Inspecting Officials of F&S/ Co-operation Department, as they were to ensure actual payment of MSP to the farmers.

WBECSCL as per Orders of the F&S Department (August 2016 and April 2017), paid ₹ 0.74 crore to those 297 aggrieved farmers from their procurement fund. The DM confirmed (March 2017) delivery of cheques among 288 farmers. Confirmation in respect of payment to all farmers were seen from the Government Order issued in June 2017 by the F&S Department.

However, in this case also, no paddy/ CMR was received by WBECSCL from the Societies/ rice mills.

The Food & Supplies Department, GoWB reimbursed the entire amount of ₹ 2.19 crore (₹ 1.45 crore in respect of Birbhum plus ₹ 0.74 crore relating to Paschim Medinipur) to WBECSCL. However, nothing was forthcoming from records to show investigations made by the WBECSCL or F&S Department to identify lapses on the part of district functionaries of WBECSCL or Inspecting

Officials of F&S Department to fix-up responsibility. Considering the gravity of the matter, the F&S Department needs to undertake an investigation to identify the responsibility centres and in accordance fix responsibility on the delinquent officers/ officials of the F&S Department as well as the WBECSCL. Moreover, West Bengal Custom Milled Rice (Obligation & Control) Order, 2015, contained provision for penalty against non-delivery of paddy/ CMR by the Society/ rice mills. In the case of failure of the Society/ rice mill to deliver the full quantity of paddy/ CMR, the order provided for recovery of the entire costs from the rice miller/ Society and initiation of appropriate legal action. However, there was nothing on record either at the end of the WBECSCL or with the F&S Department, to indicate if any effort was made for recovery of cost of undelivered CMR.

Department in their reply (March 2020) accepted the fact that payment of compensation to the deprived farmers had been made.

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

HEALTH & FAMILY WELFARE DEPARTMENT

3.8 Excess expenditure on purchase of medicines and equipment

NRS Medical College & Hospital (MCH) and RG Kar MCH incurred excess expenditure of ₹ 2.71 crore on purchase of medicines and equipment in contravention to clarifications of Finance Department on treatment of pre-GST contracts during GST regime.

Medical College & Hospitals (MCHs) in the State procure medicines and equipment either by inviting tender or from the approved vendors at the rate finalised by Central Medical Stores (E&S), Department of Health & Family Welfare, Government of West Bengal.

On introduction of Goods and Services Tax (GST) with effect from July 2017, Finance Department, Government of West Bengal (GoWB) issued (August 2017) clarifications/ guidelines pertaining to treatment of ongoing pre-GST contracts after introduction of GST regime. According to the clarification, GST would be applicable, regardless of time of supply of goods, in any invoice/ bill raised on or after 1st July 2017 under pre-GST contracts. The order further clarified that in such cases, the value of the bill together with the applicable tax under GST {*i.e.*, West Bengal State Goods & Services Tax (WBSGST) *plus* Central Goods & Services Tax (CGST) in case of local purchase from within the State} should not exceed the value that such contractor/ supplier would have billed for prior to July 2017 inclusive of Value Added Tax (VAT) and Service Tax, if any. The Finance Department, in its order, further illustrated[149] how the base price ('calculated base price') was to be worked out from the prices inclusive of all taxes to ensure that total payable price under GST regime do not exceed the price payable earlier.

It was observed in audit that at that point of time (1st July 2017) when GST was introduced, there was an ongoing contract (since 2015) under the Central

[149] *If total price inclusive of all tax prior to GST regime: X, applicable rate of GST: R; Calculated base price: X * {100/ (100+R)}*

Medical Stores (E&S) (CMS) for purchase of medicines and equipment. Under the above mentioned order of the Finance Department, rates (inclusive of all taxes) finalised by CMS in that contract in pre-GST regime was to continue in GST regime too.

Scrutiny of the bid document of the tender notified in September 2015 showed that the lowest bidders were selected on the basis of base rates quoted ('quoted base price') by them. The 'quoted base price'[150] were exclusive of VAT/ Central Sales Tax (CST), Excise duty and Cess, *etc.*, wherever applicable. CMS asked (August 2016) the selected bidders of each item to provide tax composition[151] of the items. In the finalised rate chart showing tax component-wise breakup:

- In some cases, applicable taxes like VAT, Excise Duty, Entry Tax and Cess, *etc.*, were shown separately;
- In some cases, only VAT was shown (indicating that the 'quoted base prices' included other taxes); and
- In the remaining cases, no tax component was shown separately at all (indicating that those 'quoted base prices' were inclusive of all taxes).

Scrutiny of purchase records of medicines and equipment related to NRS Medical College & Hospital (MCH), Kolkata and RG Kar MCH, Kolkata showed that in GST regime they procured equipment and medicines from CMS approved vendors from the suppliers selected in pre-GST regime.

The MCH authorities did not work out the 'calculated base price' following the instructions stipulated by the Finance Department in its order of August 2017. Instead, while issuing supply orders to vendors, applicable GST component was added to the 'quoted base price'. As a result, total bill value for those items in GST regime surpassed the amount that would have been billed for those items in pre-GST regime. Such excess expenditure pertained to the cases where rate of VAT was less than the applicable rate of GST or where the vendors did not indicate any tax component at all apart from "quoted base price'. Total additional expenditure on this count in these two MCHs stood at ₹ 2.71 crore[152] (***Appendix 3.1A*** and ***3.1B***). This may also lead to undue financial benefit to the vendors as they were not liable to deposit the additional quantum of GST received from these hospitals against their bills.

Authority of NRS MCH stated (January 2020) that necessary clarification had been sought (January 2020) from the Directorate of Health Services (DHS), Department of Health & Family Welfare.

Thus, NRS MCH and RG Kar MCH incurred an excess expenditure of ₹ 2.71 crore on purchase of medicines and equipment during GST regime, by not adhering to the instructions issued by Finance Department for treatment of pre-GST contracts. This also led to extension of undue financial benefits to the private suppliers to that extent.

The matter has been referred to the Government in September 2021; reply was awaited (October 2021).

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[150] *Inclusive of Entry Tax, Customs Duty (if applicable), Transportation Charges, Insurance, Delivery Charges, Incidental Charges, Freight Charges, Testing Charges, Installation and Training Charges, etc.*

[151] *The tax composition provided by the bidders were not made available in audit.*

[152] *NRS MCH: ₹1.39 crore and RG Kar MCH: ₹1.32 crore*

3.9 Avoidable payment of health insurance premium

Due to failure in exercising proper check, H&FW Department made extra payment of ₹ 10.20 crore towards premium of Rashtriya Swasthya Bima Yojana (RSBY).

With a view to providing health insurance cover to Below Poverty Line (BPL) families, Government of India (GoI) had introduced a health insurance scheme titled 'Rashtriya Swasthya Bima Yojana (RSBY)' from 2008-09. Beneficiaries under RSBY were entitled to a hospitalisation coverage of up to ₹ 30,000 and the premium was to be shared between the GoI and the State in the ratio 60:40. In West Bengal, the Health & Family Welfare Department (H&FW Department) was responsible for implementing the scheme since September 2013.

In February 2016, in order to bring workers/ volunteers associated with various schemes/ programmes implemented by the State Government and not covered under any health insurance or similar other scheme, the Government of West Bengal introduced a separate Group Health Insurance scheme named 'Swasthya Sathi'. This scheme was to be implemented by the H&FW Department through formation of Swasthya Sathi Samity and was to provide basic health cover upto ₹ 1.5 lakh *per annum* per family and upto ₹ 5.00 lakh for critical illnesses like Cancer, Neuro-surgeries, *etc*. Premium for this scheme was to be borne entirely by the Government of West Bengal.

Salient features of these two schemes are given below.

Table 3.4: Features of RSBY and Swasthya Sathi

Particular	RSBY	Swasthya Sathi
Initiation Year	Financial Year 2008-09	Financial Year 2016-17
Family size	Five	No cap
Family definition	Household head, spouse, and up to three dependents (children and/ or parents of the head of the family)	Husband, wife, parents of both the spouse and all dependent children.
Health Coverage	₹ 30,000 per family *per annum*	₹ 5,00,000 per family *per annum*
Target Population	Below Poverty Line, Mahatma Gandhi National Rural Employment Guarantee Scheme and Handloom workers	Workers/ volunteers, *etc.*, who were not covered under any health insurance or similar other scheme
Premium Sharing pattern between State and Central Government	40:60	100 *per cent* by the State Government

Source: Scheme guidelines and records of H&FW Department

Thus, both the schemes were implemented by the H&FW Department in West Bengal and premium for both RSBY (partly) and Swasthya Sathi (fully) were borne by the State. Moreover, Swasthya Sathi aimed at covering population not covered under any similar health insurance scheme. It was, therefore, imperative for the Department to check if the applicants for Swasthya Sathi were already covered under RSBY. This would have saved payment of premium for either of the schemes. Especially, as coverage under Swasthya Sathi was higher than that of RSBY, discontinuation of RSBY premium at the time of enrolment in Swasthya Sathi would have been economical for the Department without any compromise in insurance benefits receivable by the beneficiaries.

However, the Department did not exercise any check while enrolling beneficiaries under Swasthya Sathi.

Subsequently, the RSBY scheme was to be withdrawn by Government of India as another new scheme - Ayushman Bharat was launched on 14 April 2018. In October 2018, the Swasthya Sathi Samity decided to subsume RSBY beneficiaries into Swasthya Sathi Scheme from 01 October 2018. For facilitating the process, the State Health Agency obtained (August 2018) RSBY database of beneficiaries from GoI.

In March 2019, it was detected that there was an overlapping of 2.03 lakh beneficiaries in the State, who were covered both under Swasthya Sathi and RSBY during the period from April 2017 to September 2018. The quantum of RSBY premium paid against those beneficiaries for this period stood at ₹ 10.20 crore. As premium of Swasthya Sathi was also continued to be paid simultaneously during this period against those families, payment of RSBY premium lacked justifications and hence, was avoidable. Had the Department exercised cross-check during enrolment of beneficiaries under Swasthya Sathi with database of RSBY, the same could have been avoided.

The fact of duplication of beneficiaries under these two schemes, was accepted (October 2019) by the Additional Director (Accounts), Swasthya Sathi Samiti. A further detailed reply was submitted, in August 2021, by the Secretary & State Nodal Officer, Swasthya Sathi, Department of Health and Family Welfare Government of West Bengal. The reply has contended that there was no explicit bar on eligibility if any beneficiary was already covered under other Government sponsored scheme like RSBY *etc.* and that the Government of India had delayed the decision of winding up of RSBY and allowed the State Government to pay premium (on pro-rata basis) on account of the RSBY beneficiaries of the State from time to time (up to 30 September 2018) as per the approved beneficiary list by GOI. The reply has also contended that there was no common key between RSBY Database and Swasthya Sathi database for identification of duplication and there were variations in family definition and coverage in these two schemes. The reply has further contended that as per Insurance Regulatory and Development Authority guidelines, Insurance premium is paid in advance and thus identification of any family and deleting it from the databases during pendency of the scheme is not considered.

Reply was not tenable as the Swasthya Sathi scheme was aimed at covering such population, who were not covered under any health Insurance or similar other scheme and as explained in the salient feature of these two schemes, the coverage under the Swasthya Sathi scheme was much more comprehensive than that of the RSBY scheme. Further, decision of the GoI to wind up the RSBY scheme had nothing to do with the fact of duplication, as proper scrutiny during enrolment process of the Swasthya Sathi scheme, could have avoided the overlapping of beneficiaries between these two schemes. That no common key was assigned between the database of these two schemes from the initial stage of implementation of the Swasthya Sathi scheme, was a fault attributable to the State machinery, as finally a unique RSBY URN was generated, which was subsequently used in the de-duplication process and for subsuming RSBY beneficiaries under the Swasthya Sathi Scheme. Even the logic of making advance payment of Insurance premium, lacked justification, as such payment due to overlapping of beneficiaries continued for eighteen months for these two schemes and such double payment could have been avoided had proper scrutiny during enrolment under the Swasthya Sathi Scheme been done. Thus, the

H&FW Department shouldered an avoidable expenditure of ₹ 10.20 crore for unjustified continuation of RSBY premium against 2.03 lakh beneficiaries, who were also enrolled under Swasthya Sathi scheme.

The matter has been referred to the Government in June 2021; reply was awaited (October 2021).

3.10 Non-recovery of penal amounts from Swasthya Sathi Insurance Companies

The State Nodal Agency, Swasthya Sathi, Health & Family Welfare Department did not recover ₹ 6.11 crore from Insurance Companies for their under-performance, in spite of having enabling provisions in the agreement.

With a view to bringing the low paid contractual workers/ volunteers associated with various schemes/ programmes implemented by the State Government and who were not covered under any Health Insurance Scheme, the Health & Family Welfare Department (Department) introduced a Group Health Insurance scheme-named "Swasthya Sathi" in February 2016. The Scheme was designed to provide basic health cover for tertiary care[153] up to ₹ 1.5 lakh *per annum* per family through insurance[154] mode and up to ₹ 5 lakh *per annum* per family through Assurance mode[155].

For this purpose, agreements were entered into between the State Nodal Agency (SNA) and Insurance Companies (ICs)[156]. As a deterrent against under-performance, the agreements had specific penal provisions against under performance by the ICs. Such performance assessment was to be done in terms of enrolment related activities, timeliness in settlement of claims and empanelment of health care service providers. As regards timeliness in settlement of claims, settlement within 30 days from date of submission of claim was stipulated as an acceptable standard and non-adherence to the same would attract penalty based on the criterion enumerated below:

Table 3.5: Details of criteria for imposing penalty provision

Standard	Monitoring method	Benchmark	Points assigned in under-performance severity scale
Settlement of claims within 30 days	The ratio of claims amount which have not been paid or rejected within 30 days (from the date of claims raised to the Insurance Company) to the total claims amount made to the Insurance Company.	If 10% of claims remain unpaid at the end of 30 days	four Points
		If between 10% and 25% of the claims remain unpaid after 30 days	eight Points
		If between 25% - 40% of the claims remain unpaid after 30 days	10 Points
		If more than 40% of claims remain unpaid after 30 days	12 Points

Source: Clauses of the agreement between SNA & Insurance Companies

[153] *Tertiary Health care refers to a third level of health system, in which specialized consultative care is provided usually on referral from primary and secondary medical care. Specialised Intensive Care Units, advanced diagnostic support services and specialized medical personnel are the key features of tertiary health care.*

[154] *Includes basic health cover for secondary and tertiary care upto ₹1.5 lakh per family per annum*

[155] *Includes treatment of critical illnesses beyond ₹1.5 lakh and upto Rupees five lakh per family per annum*

[156] *2017-18: National Insurance Company- 10 districts and United India Insurance Company-13 districts and 2018-19: Bajaj Finance Insurance Company- 18 districts and Iffco Tokio Insurance Company- five districts*

The threshold limits prescribed for imposition of penalty performance severity on the defaulting ICs were as under:

Table 3.6: Detailed penalty provisions of defaulting Insurance Companies

Threshold limits of points	Penalty provision
6-18 points	one *per cent* of total annual premium amount for the concerned insurance company
19-24 points	three *per cent* of total annual premium amount for the concerned insurance company
25- 28 points	five *per cent* of the total annual premium amount for the concerned Insurance Company and cancellation of renewal
29- 32 points	eight *per cent* of total annual premium and Insurance Company debarred from bidding for one year
False intimations on any of the above parameters	Insurance Company barred from bidding for three years

Source: Clauses of the agreement between SNA & Insurance Companies

Scrutiny of records relating to district-wise performance of the Insurance Companies in terms of timeliness in settlement of claims showed that there was substantial delays beyond stipulated 30 days as shown in ***Appendix 3.2***. The position is summarised below.

Table 3.7: Summary of performance of Insurance Companies

Year	Name of the IC	Number of districts assigned	Number of districts where 10-25 *per cent* of cases were delayed beyond 30 days (percentage range of cases delayed)	Number of districts where more than 25 *per cent* cases were delayed beyond 30 days (percentage range of cases delayed)
2017-18	National Insurance Company	10	06 (11.18 to 24.64 *per cent*)	03 (26.73 to 32.03 *per cent*)
	United India Insurance Company	13	04 (11.08 to 12.33 *per cent*)	05 (26.49 to 52.76 *per cent*)
2018-19	Iffco Tokyo Insurance Company	Five	01 (22.77 *per cent*)	04 (25.98 to 43.45 *per cent*)
	Bajaj Finance Insurance Company	18	06 (11.95 to 15.07 *per cent*)	01 (25.03 *per cent*)

Source: Records of the district authorities

The above position rendered the defaulting ICs liable to receive 8 to 12 points on severity scale for under performance. As per the agreed stipulation, one *per cent* of the annual premium amount should have been recovered from the concerned IC as penalty.

The SNA, however, neither evaluated the performances of the Insurance Companies as per criterion laid down in the agreements executed between the SNA and ICs, nor imposed any penalty on the defaulting ICs. A comparison of district-wise total amounts of premium paid (₹ 1,148.49 crore)[157], recoverable penalty at the rate of one *per cent* and premium actually paid[158] to the Insurance Companies during 2017-18 and 2018-19 showed that even on a conservative estimate the unrecovered penalty amount stood at ₹ 6.11 crore[159].

Thus, the State Nodal Agency did not recover ₹ 6.11 crore from Insurance Companies against their under-performance in spite of having enabling

[157] *₹851.48 crore in 2017-18 and ₹297.01 crore in 2018-19*

[158] *After adjusting the refundable amount of premium by the Insurance Companies in the case the admitted hospital claims was less than 80% of the premium. In such case, the insurer was to return the difference between actual claim and 80% of the insurance premium to the SNA*

[159] *₹ 5.93 crore in five districts for 2017-18 & ₹ 0.18 crore in nine districts for 2018-19*

provisions in the agreement. This not only amounted to extension of undue financial advantage to the Insurance Companies, but also diluted the built-in deterrence mechanism against delays in settlement of claims.

On this being pointed out by Audit, the Financial Advisor, Swasthya Sathi, H&FW Department, in reply, stated (January 2021) that the system for identifying late payment beyond 30 days with reasonable accuracy was not readily available in the portal. This amounts to deficiency in control mechanism on the part of State Nodal Agency.

Secretary and State Nodal Officer, Swasthya Sathi, in reply (August 2021) contended that delayed payment to hospitals could not be arrived at with reasonable accuracy, as the date of uploading of data regarding payments made could be delayed beyond 30 days, though the payments were credited within 30 days.

The reply was not tenable since scrutiny of records revealed that not only the date of uploading of data regarding payments made was delayed beyond 30 days but also payments were not actually credited in due time, *i.e.*, within 30 days, in contrary to that contended to by the Department.

The reply, however, mentioned that necessary measures were being taken for upgradation of the software in order to reflect actual date of payment in the portal so that delay/ confusion does not occur. Also, it was noticed from the reply that the concerned Insurance Companies have been communicated for depositing the penalty amounting ₹ 6.11 crore.

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

TECHNICAL EDUCATION, TRAINING & SKILL DEVELOPMENT DEPARTMENT

(DIRECTORATE OF INDUSTRIAL TRAINING)

3.11 Wasteful expenditure of ₹ 257.13 lakh towards construction of Industrial Training Institute

Lack of co-ordination within the Government led to initiation of the work of construction of an Industrial Training Institute, on a plot of land, not owned by the Government. This resulted in a wasteful expenditure of ₹ 257.13 lakh towards cost of construction of the incomplete ITI building.

Government of West Bengal (GoWB) in the Department of Technical Education, Training and Skill Development (TETSDD) initiated (March 2015) the work of construction of a building for establishing a new Industrial Training Institute (ITI) at an estimated cost of ₹ 839.14 lakh at Nandigram-I Block in Purba Medinipur district, by engaging a Government of India Undertaking, M/s Hindustan Steelworks Construction Limited (HSCL), as the executing agency. An amount of ₹ 419.57 lakh (being 50 *per cent* of total cost[160]) was paid (March 2015) by the GoWB to M/s HSCL as per terms of agreement executed (March 2015). The construction work, however, was stopped on 16 October 2015.

In this backdrop, records were reviewed. It emerged from such review that

[160] *As per agreement, 10 per cent of total cost of estimate was to be paid on signing the agreement and 40 per cent was to be paid with the commencement of work*

- Block Land & Land Reforms Officer (BL&LRO), Nandigram-I declared (January 2014) the land in question as free from all encumbrances and other litigation for the purpose of construction of the proposed ITI, though the Government was perpetually restrained from interfering with possession of the said land. This was as per a decree passed by the District Court, Tamluk, Medinipur (currently Purba Medinipur) in August 1963, in terms of which, the possession of the land in question was declared in favour of an individual petitioner. In these circumstances, declaring the said land as free from all encumbrances, was misleading. Even, records of the TETSDD did not indicate that the BL&LRO at any stage informed them of this matter.
- In November 2014, successors of the petitioner moved[161] the Hon'ble High Court, Calcutta seeking to restrain any erection in the said plot of land. It was observed from the filed petition that the BL&LRO was made party to the case. TETSDD, however, initiated the work of construction of the ITI on the said land from March 2015. There was nothing on record at the end of the TETSDD, to indicate that initiatives were taken from their end, to be aware about further developments concerning the ITI to be constructed, prior to actual commencement of the work, though M/s HSCL had proposed (11 April 2015) to the TETSDD that, as there was a change in the plot of land by way of reduction of area (from 4.24 acres to 2.56 acres) of available land, the layout plan was required to be revised, which was also acceded to by the TETSDD. Till the stoppage of work on 16 October 2015, the construction work was 30 *per cent* complete involving an expenditure of ₹ 257.13 lakh.
- GoWB (after 54 years, from the decree passed in August 1963) moved (2017) the Court of Law, which allowed[162] (July 2017) the case. Successors of the petitioner moved the Hon'ble High Court, Calcutta thereafter and the Hon'ble High Court, through its order dated 18 January 2018, dismissed the appeal of the GoWB, in respect of the decree of August 1963. GoWB moved the Hon'ble Supreme Court in September 2018 but the same was also dismissed by the Supreme Court in September 2018.
- Thereafter, the TETSDD in November 2019, accorded the final administrative approval for ₹ 257.13 lakh, being the amount of expenditure incurred, and requested M/s HSCL to refund the balance amount of ₹ 162.44 lakh. Further, as seen from a communication (21 March 2021) of the Directorate under TETSDD, the residual amount of ₹ 162.44 lakh, as was also paid to the Government of India Undertaking A, was to be adjusted with payment due for construction of other ITIs and partly to be refunded to GoWB. Thus, lack of co-ordination within the Government led to construction of ITI, Nandigram-I Block, on a disputed plot of land, resulting in wasteful expenditure of ₹ 257.13 lakh towards cost of construction of the incomplete ITI building.

In reply (September 2021), the TETSDD stated that administrative approval was accorded in January 2015, relying on the non-encumbrance declaration submitted by the BL&LRO in January 2014. The reply mentioned that at no point of time the TETSDD was informed about the litigated status of the land

[161] *Through Writ Petition, based on the decree passed in August 1963*
[162] *Delay on part of the State Government was condoned.*

in question, prior to commencement of work. The reply also mentioned that the residual amount of ₹ 162.44 lakh was under the process of recovery.

As the administrative approval was issued by the TETSDD one year after obtaining the declaration from the BL&LRO, it was essential that the current position concerning the plot of land, was sought for from the BL&LRO, prior to issuing the administrative approval. However, the reply remained silent as to whether such current position was sought for from the BL&LRO. Further, the reply in effect substantiated the Audit contention that there was lack of co-ordination within the Government of West Bengal, leading to such wasteful expenditure.

The whole gamut of facts was indicative of lack of coordination within the Government culminating in wasteful expenditure, which calls for attention of the Government including fixation of accountability.

MINORITY AFFAIRS & MADRASAH EDUCATION AND SCHOOL EDUCATION DEPARTMENTS

3.12 Printing of Text Books

Excess printing of 26.69 lakh National Text Books (NTBs)/ Text Books resulted in excess expenditure of ₹ 4.23 crore.

a) For supplying National Text Books (NTBs) to students of Madrasahs, Directorate of School Education (DSE) used to print all books for classes I to V. Subsequently, the School Education Department requested (July 2016) the Directorate of Madrasah Education (DME) to print NTBs for classes I to V of all Madrasah students for the academic year 2017 onwards. DSE was, thus, absolved of the responsibility of printing of NTBs for classes I to V. DME placed work orders on two State PSUs[163], for printing of NTBs for classes I to V for the academic year 2018. Further, for classes VI to XII, printing of text books[164] (TBs) was done by DME for the academic year 2018 as well as earlier academic years.

During scrutiny of stock of NTBs/ TBs and records relating to online requisitions[165] submitted to West Bengal Text Book Corporation Limited (WBTBCL) by DSE for printing and distribution of books of 12 districts[166] for the academic year 2018, it was noticed that the DSE in violation of the decision of the School Education Department (July 2016) and the prevailing system as referred above, also printed 10,43,400 NTBs valuing ₹ 3.21 crore[167] for classes I to XII and distributed the same to Madrasahs. The duplicate set of books were, however, lying at Madrasahs, undistributed and could not be utilised. Reasons for printing of same set of text books by the DSE were not on record.

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[163] *Hooghly Printing Company Limited (HPCL) and West Bengal Text Book Corporation Limited (WBTBCL)*

[164] *(i) Some books of Classes IX to XII, as follows,* ***Class-IX and X:*** *Bengali, English and Mathematics; (ii)* ***Class-XI:*** *Mind Scrape, Rapid reader, Sahitya Charcha and Bangla Sahityer Itihas, and (iii)* ***Class-XII:*** *Mind Scrape and Rapid reader*

[165] *Online requisitions submitted by Circle offices of DSE.*

[166] *North 24 Parganas, South 24 Parganas, Hooghly, Murshidabad, Birbhum, Malda, Bardhaman, Cooch behar, Dakshin Dinajpur, Uttar Dinajpur , Howrah and Jalpaiguri*

[167] *For 1,91,243 books pertaining to 2018, calculated by Audit at the rates charged by West Bengal Text Book Corporation Limited.*

Minority Affairs and Madrasah Education Department (MAMED) replied (January 2019) that the matter had been brought to the notice of the School Education Department. The reply also contained that the School Education Department had formed a Convergence Committee (with the Principal Secretary, School Education Department, the Principal Secretary, MAMED and the Principal Secretary, Pashim Banga Sarva Siksha Abhiyan-PBSSM as its members), to prevent repetition of this kind of incidence.

b) Printing of TBs, for academic years 2016-2018, were seen to be done by the DME by enhancing the existing student strength by 10 *per cent*. An attempt by Audit, in respect of classes VI to VIII (for some books), disclosed an excess printing of 16.26 lakh TBs worth ₹ 1.02 crore for the academic years 2016 to 2018 in comparison to actual enrolment recorded during these academic years. Reasons for placing order for printing of 16.26 lakh excess TBs were not on record, and those TBs were lying at the Madrasahs.

On this being pointed out by Audit, the MAMED, while admitting that actual assessment was made by enhancing existing number of students by 10 *per cent*, *inter-alia* replied (January 2019) that sometimes the number of students admitted was less than the desired numbers and in most cases it was more than 10 *per cent* and exact number of TBs required could not be ascertained at the time of printing of TBs. Reply of the MAMED was not tenable in view of piling up of non-distributed books to the extent of 16.26 lakh which reflects poorly on the assessment procedure adopted and due to which an amount of ₹ 1.02 crore had to be borne out of the State exchequer.

Thus, printing of same sets of NTBs/ TBs (academic year 2018) meant for students of Classes I to XII of Madrasahs in the State of West Bengal, by the Directorate of School Education (DSE), in addition to printing undertaken by the Directorate of Madrasah Education (DME), coupled with excess printing of TBs over actual enrolment by the DME during the academic years 2016 to 2018, led to excess printing of 26.69 lakh NTBs/ TBs. Non-utilisation of the excess printed NTBs/ TBs rendered the expenditure of ₹ 4.23 crore incurred thereon unfruitful, besides causing adverse impact on environment by wastage of papers used for printing of unused books.

The matter has been referred to the Government in September 2021; reply was awaited (October 2021).

LABOUR DEPARTMENT

3.13 Inadmissible payment

Failure in proper implemention of Samarthan scheme allowed inadmissible payment of ₹ 2.18 crore. Further, no mechanism was put in place to collate data/ information for assessing the extent of alternative business actually generated in the State.

Government of West Bengal (GoWB) introduced a new scheme called 'Samarthan' with a view to providing financial assistance (One Time Grant of ₹ 50,000) to such labourers/ workers who were permanent residents of West Bengal, working in other States, and who had lost their employment and were compelled to return to the State after 08 November 2016 as jobless, consequent upon Demonetization.

The main objective of the scheme was to facilitate jobless workers/ labourers to begin alternative business/ self-employment. The Department released ₹ 94.20 crore to 10 districts under 'Samarthan scheme' during 2016-2017 (₹ 58.64 crore) and 2017-2018 (₹ 35.56 crore). Though, the Guidelines of the scheme did not specify the modalities about the procedure of payment to beneficiaries, while analyzing the disbursement process, it came to notice that payment to beneficiaries were made either by DM offices or by offices of Block Development Officer (BDO)/ Sub-Divisional Officer (SDO). Guidelines of the scheme issued by the State Government specified the following eligibility criteria for selecting the beneficiaries:

i) The worker/ labourer should be a bread-winner of the family.

ii) Block Development Officer (BDO) in consultation with local police administration should certify that the applicant was actually working outside the State and had returned to the State after 08 November, 2016 due to loss of his job. In order to complete the certification process detailed enquiry for each applicant was to be carried out.

iii) The applicant must have an Electoral Photo Identity Card (EPIC) to prove that he/ she is a permanent resident of West Bengal.

Implementation of the Samarthan scheme was scrutinized in audit between November 2018 and May 2019 through examination of records of seven districts covering an amount of ₹ 63.89 crore (₹ 50,000 each for 12,778 beneficiaries) representing 74.94 *per cent* of the total fund of ₹ 85.25 crore (17,051 beneficiaries @ ₹ 50,000) for these seven districts, pertaining to fiscals 2016-18. Offices of DM, SDO and BDO were test-checked. Findings emerging from such scrutiny are elaborated below:

Audit Findings

3.13.1 Double payment to 31 beneficiaries involving excess payment of ₹ 15.50 lakh:

As stipulated in guidelines of the scheme, each beneficiary should be paid One Time Grant of ₹ 50,000. Scrutiny of records[168] in the test-check districts disclosed that, in three test-checked districts[169], in violation of the provision of the scheme guidelines referred *ibid*, 31 beneficiaries were paid twice leading to excess expenditure of ₹ 15.50 lakh.

3.13.2 16 ineligible beneficiaries engaged in works in the State under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) were also paid financial assistance of ₹ 50,000 under this scheme

Records[170], in respect of four[171] of the test-checked districts, disclosed that 16 beneficiaries engaged under MGNREGA scheme and had received assistance under that scheme during 2016-17, were also disbursed ₹ 50,000 each under this scheme. Moreover, analysis of applications submitted by beneficiaries revealed that though the concerned BDOs and Officer-in-charge (OC) of the concerned local police administration certified them as eligible beneficiaries, no supporting documents in support that they were actually working outside West Bengal were found attached with those applications.

[168] *Final list of beneficiaries, Bank Statements and Cash Book*
[169] *Nadia, Paschim Medinipur and Murshidabad*
[170] *List of beneficiaries and data collected from public portal (http://nrega.nic.in)*
[171] *Murshidabad (12), Purba Bardhaman (one), Howrah (one) and Paschim Medinipur (two)*

Thus, these beneficiaries were allowed undue benefit of ₹ 8.00 (16 persons @ ₹ 50,000) under the scheme.

3.13.3 Financial Assistance paid to 388 ineligible applicants resulting in inadmissible expenditure of ₹1.94 crore

While scrutinising available records of BDOs/ SDOs/ DMs it had come to notice that a total of 388[172] applicants, who were paid financial assistance of ₹ 50,000 each under the scheme in the seven test-checked districts, actually returned to West Bengal before 08 November 2016 and accordingly these applicants were ineligible for the benefit under the scheme.

During scrutiny of these applications submitted by applicants it was noticed that though the concerned BDOs and Officer-in-charge (OC), local police administration certified those applications, 379 applications were found not attached with supporting documents ensuring the fact that they were actually working outside West Bengal and had returned to West Bengal after 08 November, 2016. In the remaining nine[173] cases, applications were found attached with railway tickets of before 08 November 2016, but still those applications were approved by BDO and they were paid financial assistance.

Thus, payment to these ineligible applicants resulted in inadmissible expenditure of ₹ 1.94 crore.

3.13.4 Coverage of the scheme not extended to ten other Districts of the State

Scrutiny of records (files) of the Department disclosed that out of 20 districts (as of November 2016) in West Bengal, only 10 districts had been selected for the scheme and termed as mostly affected districts of demonetization. Reasons for selection were not imminent from files of the Department. Further scrutiny revealed that District Magistrates of Purulia and Bankura in West Bengal requested (January 2018 and February 2018 respectively) Labour Department, GoWB for inclusion of the name of these districts under the scheme 'Samarthan' as a huge number of workers had returned to the districts after demonetization. However, these districts were not found included as a part of the scheme. Hence, many migrated labourers/ workers appeared to have been deprived of benefits under the scheme due to non-inclusion of these 10 districts.

3.13.5 Monitoring of the scheme to assess the extent of alternative business or self-employment actually generated

Guideline of the scheme did not specify any monitoring mechanism of the scheme although the scheme envisaged that labourers would start an alternative business/ self-employment. There was no direction in the guidelines regarding data collation on extent of alternative business or self-employment, actually generated, to assess the impact of the scheme. Hence, the test-checked DM offices and BDO offices did not take any initiative to gather information as to how far the beneficiaries could start any alternative business or self-employment with the one-time grant of ₹ 50,000.

3.13.6 Conclusion

Thus, failure in properly implementing the Samarthan scheme, which was aimed at providing labourers/ workers employed outside the State and rendered

[172] *Nadia (239), Murshidabad (30), Purba Bardhaman (14), Howrah (30), Paschim Medinipur (six), Coochbehar (20) and Dakshin Dinajpur (49)*
[173] *Nadia:four, Murshidabad:two and Purba Bardhaman: three*

jobless on account of Demonetisation, with alternative business in the State, allowed inadmissible payment of ₹ 2.18 crore out of a total of ₹ 63.89 crores spent on seven selected districts. The scheme was marked by lack of coverage of 50 *per cent* of the Districts existent in the State. Further, there was no mechanism existent to collate data/ information for assessing the extent of alternative business actually generated in the State. Thus there was no assurance that the very objective of the scheme, to start any alternative business or self-employment with the one-time grant of ₹ 50,000 was actually fulfilled.

The matter has been referred to the Government in August 2021; reply was awaited (October 2021).

PANCHAYATS & RURAL DEVELOPMENT DEPARTMENT

3.14 Avoidable expenditure due to allowance of excess loose volume of stone metal under PMGSY Roads

Due to adoption of higher rate of compaction factor, the West Bengal State Rural Development Agency incurred an extra expenditure of ₹ 1.48 crore in construction of rural roads, under the Pradhan Mantri Gram Sadak Yojana.

Government of India (GoI) launched (December, 2000) the Pradhan Mantri Gram Sadak Yojana (PMGSY), a Centrally Sponsored Scheme, to provide connectivity, by way of an All-weather Road to the eligible unconnected Habitations in the rural areas. West Bengal State Rural Development Agency (WBSRDA), an autonomous body under the Panchayat & Rural Development Department (PRDD), is the nodal agency for implementation of PMGSY in West Bengal. WBSRDA implements the PMGSY projects through Programme Implementation Units (PIUs[174]) functioning under it at different districts/ sub-divisions.

Construction of rural roads considering the specification of Water Bound Macadam (WBM), involves use of loose stone metal, in a compacted manner. In terms of the Operation Manual (OM) of PMGSY, estimates should be based on the standard items, and the Standard Rate analysis for Rural Roads included in the Standard Data Book: Analysis of Rates for Rural Roads-2004 (SDB), brought out by the Ministry of Rural Development (MoRD). Further, as per the OM, roads were to be constructed in an economic and efficient way in terms of both cost and utility. As per the MoRD guidelines, for 360 cubic metre of output *i.e.,* compacted thickness, 435.60 cubic metre of loose stone metal was required (*i.e.,* compaction ratio of 1:1.21) in the specification of the WBM (for Grading two and three respectively).

Test-check, in course of audit (January 2020), disclosed that in districts of Paschim Medinipur and Jhargram, while preparing the Detailed Project Reports for 17 rural road projects, the Executive Engineer, Project Implenting Unit (PIU), based on the Schedule of Rates (SOR-2015) of WBSRDA, considered the compaction factor as 1:1.32, for both grading 2 and 3 specification of WBM. Subsequently, these rural road projects were technically sanctioned by the Superintending Engineer, WBSRDA and administratively approved by the PRDD. Reasons as to why such higher rate of compaction factor was adopted in the SOR by the WBSRDA, in deviation from the specification prescribed in

[174] *Responsible for project planning, execution and accounting*

the guidance of the MoRD, were not clear to Audit. All 17 projects were executed by the National Projects Construction Corporation Limited, a Government of India Enterprise. For allowing such higher compaction factor in the specification of WBM, in respect of all these 17 works, an avoidable expenditure of ₹ 1.48 crore was incurred.

Thus, in respect of construction of 17 rural roads under the Pradhan Mantri Gram Sadak Yojana, the West Bengal State Rural Development Agency did not adopt specifications laid down by the MoRD, in its own Schedule of Rates, for use of loose stone metal in Water Bound Macadam. Consequently, an avoidable expenditure of ₹ 1.48 crore was incurred.

WBSRDA replied (August 2021) that that the compaction factor of 1:1.32 was considered by them, based on the Specification Book of Rural Roads (brought out by MoRD) for executing rural road works under PMGSY, which laid down the range of compaction factor as 1:1.21 to 1:1.43 for WBM Grading 2 and 3 respectively, and the average of 1:1.32 was considered by them. WBSRDA also stated that the compaction factor of 1: 1.21 was adopted in the SOR of 2019. The reply was not tenable as the OM had clearly stipulated that road works were to be executed a) following the SDB and in terms of which, the compaction factor was to be 1:1.21 and b) in a cost economic manner. Moreover, the subsequent adoption of the compaction factor of 1:1.21 in the SOR 2019 by the WBSRDA for execution of road works under PMGSY, also validated the Audit contention.

The matter was referred to the Government in July 2021; reply was awaited (October 2021).

FINANCE DEPARTMENT

DIRECTORATE OF COMMERCIAL TAXES

3.15 Irregular benefit of Input Tax Credit

Failure of Assessing Authorities (AAs) to detect irregularities in claims of Input Tax Credit resulted in evasion of tax of ₹ 42.13 crore.

In terms of the West Bengal Value Added Tax Act (WBVAT Act), 2003, Output tax, in relation to any period, means the aggregate amount of tax payable by a dealer liable to pay tax in respect of any sale, or purchase, of goods, or execution of works contract, made in West Bengal. Input tax in relation to a tax period, means the amount of tax, paid or payable under the WBVAT Act, by a registered dealer, to a registered dealer, or a dealer (who is not otherwise required to be registered, but has made an application for registration within thirty days from the date of incurring liability to pay tax under the WBVAT Act), at the time of purchasing taxable goods, other than such taxable goods as may be prescribed, during that period.

WBVAT Act prescribes that a registered dealer can avail benefits of Input Tax Credit (ITC) to the extent of tax paid or payable by him in respect of purchase of taxable goods from registered dealers of West Bengal. Further, as per the WBVAT Act, ITC shall not be allowed to the purchasing dealer where original tax invoice has not been issued by the selling dealer from whom the goods have been purchased. WBVAT Act also prescribes that no ITC shall be allowed for purchases made from a registered dealer who is enjoying payment of tax at compounded rate.

Audit found in course of test-check, in six charge offices (Asansol, Colootola, Large Taxpayer Unit at Kolkata, Postabazar, Rajakatra and Salkia), that nine dealers (in total 10 cases) had availed benefit of ITC of ₹ 49.65 crore on the basis of purchase transactions. Scrutiny of these 10 cases was undertaken, with reference to returns filed by these purchasing dealers/ particulars of purchases submitted by these purchasing dealers/ corresponding particulars of sales submitted by sellers (from whom purchases were shown to be made by these purchasing dealers)/ registration status of these purchasing and selling dealers, as per the database of the Directorate, on test-check basis.

It was observed that in these 10 cases, nine dealers were eligible for benefit of ITC of ₹ 7.52 crore instead of availed benefit of ₹ 49.65 crore. Reasons for higher availment of ITC than eligibility, as emerged from the database, were

a) in eight cases, either sellers had not made any sales to purchasers or made sales of such amount which was less than that claimed to be purchased by the purchasers. Of these eight cases, in one case the purchasing dealer's Registration Certificate (RC) was cancelled prior to the assessment period and in another case the seller dealer was paying tax at compounded rate;

b) in one case, purchases were made from such dealers whose Registration Certificates were cancelled prior to the assessment period; and

c) in the remaining case, purchases were made from a dealer who was enjoying payment of tax at compounded rate.

Assessing Authorities (AAs) failed to detect such irregularities through scrutiny of returns and details of sales, purchases, *etc*. Consequently, these dealers irregularly availed benefits of ITC of ₹ 42.13 crore (availed of ₹ 49.65 crore *minus* eligible ₹ 7.52 crore) and adjusted the same with their liability of payment of tax on their sales. So, there was evasion of tax by these dealers to the extent of ₹ 42.13 crore.

As irregular benefit of ITC, results in evasion of tax, so there is a need to undertake a thorough investigation to detect further such instances of benefits of ITC being passed on irregularly.

On these being pointed out, two charge offices (Postabazar and Rajakatra) while accepting the audit observations in three cases involving ₹ 6.66 crore stated (between June 2019 and February 2020) that

- Necessary action would be taken to re-open the case with the approval of the competent authority in one case involving ₹ 2.56 crore.
- Necessary action would be taken in due course in two cases involving ₹ 4.10 crore.

However, they did not furnish any report on levy and realisation of tax (June 2021). In six cases involving ₹ 34.27 crore, four charge offices (Asansol, Colootola, Postabazar and Salkia) replied (between May 2019 and March 2020) that the matter would be looked into. In the remaining one case, involving ₹ 1.20 crore, Large Taxpayer Unit charge office at Kolkata did not furnish any reply. Their further reply/ reply is awaited (June 2021)

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

3.16 Non-levy of penalty on irregular claims of Input Tax Credit

Despite detection of cases of irregular claims of Input Tax Credit (ITC) by two dealers, proceedings to levy penalty were not initiated. Consequently, penalty of ₹ 1.33 crore was not levied.

In terms of the West Bengal Value Added Tax Act (WBVAT Act), 2003, Output tax[175], in relation to any period, means the aggregate amount of tax payable by a dealer liable to pay tax in respect of any sale, or purchase, of goods, or execution of works contract, made in West Bengal. Input tax[176] in relation to a tax period, means the amount of tax, paid or payable under the WBVAT Act, by a registered dealer, to a registered dealer, or a dealer[177] (who is not otherwise required to be registered, but has made an application for registration within thirty days from the date of incurring liability to pay tax under the WBVAT Act), at the time of purchasing taxable goods, other than such taxable goods as may be prescribed, during that period. Input Tax Credit[178] (ITC), in relation to any period, means the setting off of the amount of input tax, or part thereof, by a registered dealer against the amount of his output tax.

WBVAT Act prescribes that a registered dealer can avail benefits of ITC to the extent of tax paid or payable by him in respect of purchases of taxable goods from the registered dealers or dealers who have applied for registration (as explained above) of West Bengal. Further, WBVAT Act, 2003 also prescribes[179] levy of penalty if a registered dealer has claimed ITC for a period without entering into a valid transaction of purchase with another registered dealer resulting in claim of a higher amount of ITC than is admissible to the dealer. Penalty not less than 25 *per cent* and not exceeding 150 *per cent* of the amount of ITC claimed in excess than is admissible to the dealer is leviable. Penalty at the rate of 25 *per cent* is leviable, if the dealer admits in writing the fact of such ineligible claim of ITC and pays the full amount of tax involved therein. In other cases, penalty is leviable at the rate of 150 *per cent*.

During test-check of assessment files (relating to assessment period 2015-16), in Lalbazar and Behala Charge offices, under the Directorate of Commercial Tax (Directorate), Audit found (May and July 2019 respectively) that in two cases, Assessing Authorities (AAs) assessed two dealers and disallowed their claims of ITC. In the first case, the claim of ITC of ₹ 56.89 lakh was not allowed and reverse[180] tax credit of ₹ 56.89 lakh levied[181] by the AA, because the Bureau of Investigation (BOI) and ITC Investigation Unit (ITCIU) had detected that the dealer had made purchases from two dealers[182] having no existence at their declared place of business. In the second case, the AA disallowed[183] the claim of ITC of ₹ 32.33 lakh, based on the information made available by the ITCIU and direction of the Commissioner, Commercial Tax-West Bengal, that the

[175] *Section 2 (26)*
[176] *Section 2 (18)*
[177] *Section 24 (1)*
[178] *Section 2 (19)*
[179] *Section 22 A*
[180] *reverse tax credit includes the amount of input tax credit availed in excess of the eligible amount (Section 22 (17) of the WBVAT Act)*
[181] *An interest of ₹ 31.36 lakh, on such reverse tax, was also levied for the period from 01 January 2016 to 26 July 2018. Assessment made on 27 July 2018*
[182] *Registration Certificate of one dealer was cancelled in August 2012*
[183] *Assessment made on 21 March 2018*

dealer had enjoyed ITC amounting ₹ 32.33 lakh through fake and false transactions of purchases. However, in neither of these cases, proceedings were initiated to levy penalty, though, 9 to 15 months (for Lalabazar and Behala charge respectively) had elapsed, as of months of audit, even after assessment of these two dealers. These dealers also did not admit in writing facts of such claims of ITC or pay the full amount of tax. So, penalty leviable was ₹ 133.82 lakh (Lalbazar Charge Office- ₹ 85.33 lakh and Behala Charge Office- ₹ 48.49 lakh).

Thus, proceedings to levy penalty were not initiated, in keeping with provisions of the West Bengal Value Added Tax Act, 2003, despite detection of cases of irregular claims of ITC by two dealers. Consequently, penalty of ₹ 1.33 crore was not levied.

On these being pointed out (May 2019 and July 2019), both Charge offices had accepted (June and September 2019) the audit observations. In their replies, Lalbazar Charge office also conveyed that due process for imposition of penalty has been initiated in June 2019, while the Behala Charge office stated that, action would be initiated, as per applicable provisions of WBVAT Act. Directorate of Commercial Taxes informed (September 2021) that notice of demand for imposition of penalty had been issued and tax recovery proceedings had been initiated.

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

3.17 Short levy of tax due to mistakes in computation

In four cases, the Assessing Authorities assessed tax of ₹ 2.36 crore instead of ₹ 3.86 crore due to mistakes in computation. This resulted in short levy of tax of ₹ 1.50 crore.

In keeping with provisions[184] of the West Bengal Value Added Tax Act (Act), 2003, tax is to be computed at prescribed rates after allowing for prescribed deductions on the Turnover of Sales of goods and the Contractual Transfer Price (CTP) in respect of transfer of property in goods in the execution of any works contract. Central Sales Tax Act, 1956 prescribes[185] that every dealer, who in the course of inter-state trade or commerce, sells goods to a registered dealer, shall be liable to pay tax.

Audit in course of test-check found, in four charge offices[186], under the Directorate of Commercial Tax, that in four cases[187] the Assessing Authorities (AAs) levied tax of ₹ 2.36 crore instead of leviable tax of ₹ 3.86 crore. Reasons for which, as emerged from assessment orders, were a) *China Bazar charge office*[188]: short determination[189] of the taxable turnover of sales of goods, b) *Bhawanipur charge office*[190]: short determination[191] of the taxable CTP in respect of transfer of property in goods in execution of works contract,

[184] *Sections 16, 14 and 18 of the West Bengal Value Added Tax Act, 2003*
[185] *Section 8 of the Central Sales Tax Act*
[186] *Charge offices audited were China Bazar, Beadon Street, Taltala and Bhawanipur between July 2019 and November 2019*
[187] *Assessed between August 2016 and June 2018, for assessment periods 2013-14, 2014-15 and 2015-16*
[188] *Levied tax-₹0.65 crore and leviable tax-₹ 1.09 crore*
[189] *Taxable turnover of sales of goods was determined at ₹13.00 crore instead of ₹21.78 crore*
[190] *Levied tax-₹0.51 crore and leviable tax-₹0.60 crore*
[191] *Taxable CTP was determined at ₹3.69 crore instead of ₹4.34 crore*

c) *Beadon Street charge office*[192]: a portion of the taxable turnover[193] of goods sold was omitted while computing the tax liability and d) *Taltala charge office*[194]: arithmetical mistake[195] in computation of tax, on a portion of the taxable turnover. Such mistakes in computation resulted in short levy of tax of ₹ 1.50 crore.

On these being pointed out (between July 2019 and November 2019), the three charge offices (China Bazar, Bhawanipur and Beadon Street) accepted (between August 2019 and December 2019) the audit observations, however, they did not furnish any report on levy and realisation of tax (September 2021).

Subsequently, in October 2021, the Directorate of Commercial Taxes responded to the issue relating to the Beadon Street Charge office. In their reply, they accepted the audit contention, but informed that the case was referred for *suo-motu* revision (SMR) to the concerned Authority. Authority concerned disposed (March 2021) the SMR proposal, as it did not find any ground for re-opening the case. This was because proceedings in respect of the instant assessment year (2013-14), relating to the dealer, had already been settled (March 2019) through Settlement of Dispute (SOD) Act, 1999. The reply indicated that there was clear lack of internal control in the functioning of the Directorate and its charge offices, as while submitting the initial reply, facts of the matter, could not be made available to Audit. It was also apparent from the reply that the case was not properly scrutinised during assessment and SOD proceedings, which led to revenue of ₹ 0.09 crore remaining not levied and finally unrealized.

Regarding the case related to the Taltala Charge office, the Directorate of Commercial Taxes endorsed reply (September 2021) of Taltala Charge office and the Taltala Charge office submitted a further reply (October 2021), the crux of which was that there was short payment of tax was ₹ 33 only, against ₹ 0.88 crore, as pointed out by Audit. Based on these replies, the matter was re-examined in audit. It was observed that when this issue was pointed out through an audit query in July 2019, it was replied in July 2019 itself by the Taltala Charge office that the matter would be looked into.

The current replies, related to the Taltala charge office, indicated that the dealer was to be taxed at lower rate of two *per cent* (with deduction of two *per cent*) for ₹ 33.94 crore (out of the total inter-state sales of ₹ 34.25 crore) and not ₹ 4.07 crore (₹ 34.25 crore-₹ 30.18 crore). The residual amount of ₹ 0.31 crore, was to be taxed at higher rate of five *per cent* (with deduction of two *per cent*). On this basis, the endorsed reply contended that short[196] payment of tax was ₹ 33 only. In this regard replies clarified that the amount of ₹ 33.94 crore on

[192] *Levied tax-₹0.52 crore and leviable tax-₹ 0.61 crore*
[193] *Taxable turnover of goods sold was considered as ₹11.62 crore instead of ₹12.25 crore*
[194] *Levied tax-₹0.68 crore and leviable tax-₹1.56 crore*
[195] *Tax @ five per cent (after allowing deduction of two per cent) on the taxable turnover of ₹30.18 crore was computed as ₹0.60 crore instead of ₹1.48 crore*
[196] *After ITC adjustment of ₹0.67 crore and tax payment of ₹0.01 crore.*

which lower rates of tax were applicable, were based on submission of requisite documents, as were uploaded by the dealer in the database of the Directorate. From replies it emerged that the Assessment did not consider this fact, while assessing the case. From further reply of the Taltala charge office, it appeared that the matter was known to them, before the assessment of the case.

It was not, however, clear from the reply or documents enclosed with the reply, as to when, these requisite documents were actually uploaded, as there was no evidence available or enclosed with the reply to indicate that the Assessment process did not consider these details, despite the fact that these details were already uploaded in the database. Further, it was surprising to note that even after detection of the mistake, re-assessment proceedings were not initiated. Moreover, it was not clear as to why these facts were not submitted to Audit at the time of furnishing initial reply to the Audit Query, instead, these facts are being brought to notice of Audit, more than two years after issuance of Audit Query/submission of initial reply. So, from facts elaborated above, it appears that the prospect of requisite documents being uploaded subsequently, could not be ruled out. Hence, in this process, the prospect of the dealer getting the scope of reducing his tax burden, could not also be ruled out.

The matter has been referred to the Government in July and August 2021; reply was awaited (October 2021).

3.18 Short determination of Contractual Transfer Price

In thirteen cases, the Contractual Transfer Price (CTP) was determined at ₹ 48.73 crore, instead of ₹ 142.91 crore. This resulted in short determination of CTP by ₹ 94.18 crore with consequent short levy of tax by ₹ 5.87 crore

West Bengal Value Added Tax Act, 2003 (Act) prescribes that a dealer is required to get registered mandatorily within 30 days from the date from which the dealer is liable to pay tax. The Act defines Contractual Transfer Price (CTP) in relation to any period as the amount received or receivable by a dealer in respect of transfer of property in goods in the execution of any works contract. The Act also prescribes that any transfer of property in goods involved in the execution of a works contract shall be deemed to be a sale by the person making such transfer and tax shall be leviable at prescribed rates. The Act further prescribes that any person responsible for paying any sum to a registered dealer for execution of works contract, shall at the time of payment, deduct tax at source from payments made to a registered dealer for execution of a works contract, at prescribed rates.

In the above backdrop, details of payments made to dealers (contractors) and tax deducted at source (from contractors) for execution of works contracts from the database of the Directorate of Commercial Taxes (Directorate); returns submitted by contractors as available in the database; certificates of tax deducted at source submitted by contractors and assessment orders, as available in charge offices, were examined in audit, on test-check basis. Test-check disclosed the following:

- In five cases, in three charge offices[197], dealers (works contractors), had continued their business even after cancellation[198] of their Registration Certificates (RCs) without getting registered again. Of these five cases, in one case, under the Malda charge office, the registration certificate of the works contractor was valid between 01 April 2014 and 25 September 2014, in the assessment period 2014-15, thereafter it was cancelled. RCs of other four works contractors, were cancelled between February 2009 and September 2014. Further scrutiny disclosed that while continuing their business, these contractors had suppressed their entire CTP of ₹ 37.89 crore, by not filing their returns, which led to the CTP being short determined by ₹ 37.89 crore. Against this CTP of ₹ 37.89 crore, tax leviable was ₹ 3.30 crore. From the database, as referred above, it was seen that in these five cases, an amount of ₹ 1.20 crore only was deducted as Sales Tax deducted at source (STDS), which resulted in short levy of tax by ₹ 2.10 crore on these dealers. Assessing Authorities (AAs[199]) could not detect continuance of business by these unregistered dealers, which could have been detected had verification of the database been done. Moreover, the database meant for capturing details of only registered contractors, was also capturing details of these five contractors, whose RCs had been cancelled. This was so because, these contractors, had used cancelled RCs, while executing projects, in the referred periods of assessment. This was a cause of concern, for which the database is required to be thoroughly reviewed to find out comprehensive details of all such cancelled RCs, which were used by different contractors, to get contracts and consequently evade payment of tax.
- In i) four charge offices (Beliaghata, Darjeeling, Fairlie Place and Lalbazar charge offices), it was noticed that in five cases (five dealers) of transfers of property in goods in the execution of works contracts, the CTP was determined at ₹ 48.73 crore and ii) two charge offices (Purulia and Siliguri charge offices), it was seen that, in three cases (two dealers), assessment was not done. Hence, the CTP for these eight cases was ₹ 48.73 crore. Audit found that, of these eight cases, in a) three cases (three dealers) payments made as per the database of the Directorate was higher than the CTP determined during assessment, which resulted in short determination of CTP by ₹ 16.65 crore; b) three cases (two dealers) where assessment was not done, the database showed that payments were made to these dealers for execution of works contract, resultantly, the CTP was short determined by ₹ 27.43 crore; c) one case (one dealer) the CTP determined in *ex parte* assessment was less than that disclosed by the dealer in his return, which led to short determination of the CTP by ₹ 5.96 crore and d) the remaining case (one dealer) the CTP determined was less than the CTP arrived at through reverse calculation, so the CTP was short determined by ₹ 6.25 crore. Consequently, the determinable CTP was to be ₹ 105.02 crore. This resulted in short determination of CTP by ₹ 56.29 crore (₹ 105.02 crore *minus* ₹ 48.73 crore), with short levy of tax being ₹ 3.77 crore. AAs could not detect these cases owing to non-verification of the database/ return, *etc.*

[197] *Malda, Salkia and Budge Budge charge offices*
[198] *Registration Certificates were cancelled between February 2009 and September 2014*
[199] *Assessing Authorities are responsible for assessments of Value Added Tax*

Thus, in thirteen cases, the Contractual Transfer Price (CTP) was determined at ₹ 48.73 crore, instead of ₹ 142.91 crore. This resulted in short determination of CTP by ₹ 94.18 crore with consequent short levy of tax by ₹ 5.87 crore.

On these being pointed out (between April 2019 and March 2020), seven charge offices[200] accepted (between June 2019 and March 2020) the audit observations. Salkia charge office stated (June 2019) that the matter would be looked into. Budge Budge charge office stated (December 2019) that necessary action would be taken in due course. However, they did not furnish any report on levy and realisation of tax (September 2021).

The matter was referred to the Government in July 2021; reply was awaited (October 2021).

3.19 Short determination of Taxable Contractual Transfer Price

In four cases, the Assessing Authorities allowed deductions of ₹ 59.14 crore instead of admissible deductions of ₹ 49.06 crore, from the Contractual Transfer Price (CTP). This resulted in short determination of taxable CTP by ₹ 10.08 crore, with consequential short levy of tax of ₹ 1.00 crore.

West Bengal Value Added Tax Act, 2003 (Act) prescribes[201] that any transfer of property in goods involved in the execution of a works contract shall be deemed to be a sale of those goods by the person making such transfer. Act also prescribes[202] that if the Contractual Transfer Price (CTP) of a dealer, calculated from the commencement of any year, exceeds five lakh at any time within such year, the dealer becomes liable to pay tax on all transfers of property in goods involved in execution of works contract from the day immediately following the day on which such CTP first exceeds five lakh.

The Act stipulates[203] that tax for transfer of property in goods involved in the execution of works contract, shall be levied on the taxable CTP (TCTP) of a dealer at prescribed rates. Further, the Act stipulates[204] that TCTP of a dealer is determined after deducting from the CTP, labour, service and other charges, payment to sub-contractors, *etc*. The Act also stipulates[205] that, where the works contractors does not maintain proper accounts, or the accounts maintained are not worthy of credence, and the amount actually incurred towards charges for labour and other services, or the TCTP for applying proper rates of tax, are not ascertainable, such charges for labour or services, or such CTP shall, for the purpose of deductions, be determined on the basis of percentage of the value of the works contract, as may be and different percentages may be prescribed for different types of works contract. For this purpose, West Bengal Value Added Rules (Rules), 2005, prescribes[206] such charges (labour, service and other like charges), for deduction from the CTP, to arrive at the TCTP. In cases where amounts to be deducted from the CTP for arriving at the TCTP, are not ascertainable from accounts of a dealer, or if a dealer does not maintain proper

[200] *Malda, Beliaghata, Darjeeling, Fairlie Place, Lalbazar, Purulia and Siliguri charge offices*
[201] *Section 14 (1)*
[202] *Section 14 (4)*
[203] *Section 18 (1)*
[204] *Section 18 (2)*
[205] *Section 18(3)*
[206] *Rule 30 (1)*

accounts, these Rules also prescribe[207] the specified percentages for different types of contracts (to arrive at the amount to be deducted from the CTP, to determine the TCTP) and also the tax rates to be applied on such specified percentages, of the TCTP, so determined.

Audit found[208] in four charge offices (Behala, Jalpaiguri, Salt Lake and Shyam Bazar Charge offices), under the Directorate of Commercial Tax, that in four cases of transfers of property in goods in the execution of works contracts involving four dealers (contractors), the Assessing Authorities (AAs) allowed deductions of ₹ 59.14 crore instead of admissible deductions of ₹ 49.06 crore from the CTP of ₹ 101.70 crore, leading to short determination of the TCTP by ₹ 10.08 crore and resultant short levy of tax of ₹ 1.00 crore. Details are given below.

Table 3.8: Short determination of TCTP *(₹in crore)*

Sl. No.	Details of Charge Offices – Assessment period *(nature of irregularity)*	No. of cases (no. of dealers)	Deductions allowed from CTP	Deductions admissible from CTP	Excess deduction allowed/ TCTP short determined	Short levy of tax
1	2	3	4	5	6 (5-4)	8
1.	Behala charge office **2015-16**	1 (1)	5.94	4.14	1.80/1.80	0.26
	Jalpaiguri charge office **2013-14**	1 (1)	6.80	6.44	0.36/0.36	0.05
	Salt Lake charge office **2015-16** *(Deduction allowed for labour, service and other charges was in excess of the amount admissible as per Section 18 (2))*	1 (1)	34.98	31.89	3.09/3.09	0.45
2.	Shyambazar charge office **2014-15** *(Deduction allowed for labour, service and other charges was in excess of the amount admissible as per Section 18 (3))*	1 (1)	11.42	6.59	4.83/4.83	0.24
	Total	**4 (4)**	**59.14**	**49.06**	**10.08**	**1.00**

Source: Assessment records and Database of the Directorate of Commercial Tax

On these being pointed out (between July 2019 and January 2020), three charge offices (Behala, Salt Lake and Shyam Bazar Charge Offices) while accepting the audit observations in three cases stated (between July 2019 and February 2020) that

- The proposal for *suo motu* revision has been sent to the appropriate authority in one case.
- Two cases would be processed for *suo motu* revision.

However, these charge offices are yet to furnish any report on levy and realisation of tax (June 2021). In the remaining one case, Jalpaiguri charge office replied (September 2019) that the matter would be looked into, their further reply is awaited (July 2021).

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

[207] *Rule 30 (2)*
[208] *During July 2019 to January 2020*

3.20 Non-levy of penalty on evaded tax

Assessing Authorities did not initiate proceedings to impose penalty, even after detection/ assessment of evasion of tax of ₹ 22.35 crore. This resulted in non-imposition of penalty at a minimum of ₹ 5.60 crore, with the maximum being ₹ 44.70 crore.

West Bengal Value Added Tax Act, 2003 (WBVAT), prescribes [209] for imposition of penalty on a dealer for concealment of sales or for furnishing of incorrect particulars of sales. Quantum of penalty should not exceed twice the amount of tax, which would have been avoided if such concealment was not detected. To bring about a uniform approach, by introducing a system of graded penalty, the Directorate of Commercial Tax (Directorate) issued (May 2013) a circular, which stipulated that a minimum penalty of 25 *per cent* of the amount of evaded tax was to be levied in cases where a dealer admitted the evasion of tax (within one month of the earliest occasion of intimation of findings to the dealer) and paid the evaded tax (with interest).

Audit found in five charge offices[210], in six cases involving as many dealers, that the Bureau of Investigation[211]/ Assessing Authorities (AAs) had detected[212] (April 2016 to August 2018) concealment[213] of sales of iron and steel, timber, spices, cars and miscellaneous taxable goods, *etc.*, amounting ₹ 275.81 crore by these dealers, by way of non-incorporation of sales in books of accounts, inflation of stock and suppression of local sales/ imported goods. In these cases, dealers had evaded tax[214] of ₹ 22.35 crore, which was detected and duly assessed[215]. In all these cases, AAs, however, did not initiate proceedings to impose penalty on these dealers under the WBVAT. Reasons for non-initiation of penalty proceedings were also not available in the assessment case records. Even if imposition of minimum penalty of 25 *per cent*, as stipulated in the circular issued in May 2013 was considered, penalty was to be ₹ 5.60 crore, with the maximum leviable penalty being ₹ 44.70 crore.

Thus, Assessing Authorities did not initiate proceedings to impose penalty, even after detection/ assessment of evasion of tax of ₹ 22.35 crore in six cases of concealment of sales of ₹ 275.81 crore. This resulted in non-imposition of penalty at a minimum of ₹ 5.60 crore, with the maximum being ₹ 44.70 crore.

On these being pointed out (between May 2019 and February 2020), four[216] charge offices in four cases stated (between June 2019 and February 2020) that:

- Penalty proceedings have been initiated by issuing notices to the dealers in two cases.
- Penalty proceedings will be initiated in one case.
- Enquiry is under process in one case.

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[209] *Section 96*

[210] *Charge offices audited were Beliaghata: one case; Jorabagan: one case; Lalbazar: one case; Salt Lake: one case and Postabazar: two cases*

[211] *It undertakes anti-evasion work of the Directorate*

[212] *As per dates of issue of Assessment Orders/ Reports*

[213] *Charge offices, **Beliaghata:** ₹7.67 crore; **Jorabagan:** ₹41.08 crore; **Lalbazar:** ₹45.13 crore; **Salt Lake:** ₹120.67 crore and **Postabazar:** ₹38.24 crore plus ₹23.02 crore*

[214] *Charge offices, **Beliaghata:** ₹0.27 crore to ₹2.22 crore; **Jorabagan:** ₹0.50 crore to ₹3.96 crore; **Lalbazar:** ₹1.64 crore to ₹13.08 crore; **Salt Lake:** ₹1.51 crore to ₹ 12.06 crore and **Postabazar:** ₹1.39 crore to ₹11.08 crore plus ₹0.29 crore to ₹2.30 crore*

[215] *Assessment period—2011-2016, assessment orders/reports issued between April 2016 and August 2018*

[216] *Beliaghata, Jorabagan, Lalbazar and Salt Lake*

In the remaining two cases, on being pointed out, the charge office[217] replied (June 2019) that the matter was being looked into and further development would be intimated to Audit.

However, none of the charge offices furnished any report on imposition and realisation of penalty (July 2021).

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

3.21 Non-raising of modified demand notice for realisation of tax

Failure of the appropriate Assessing Authority in raising the modified demand notice for realisation of tax with a dealer, even after considerable lapse of time, resulted in non-realisation of tax amounting ₹ 3.22 crore.

Rule 69 of the West Bengal Value Added Tax (WBVAT) Rules, 2005 prescribes that where any amount of tax, interest or penalty due from a dealer is modified in consequence of an order passed on re-assessment, re-determination, appeal, review or revision, the Appropriate Assessing Authority (AAA) shall serve upon such dealer, a notice specifying therein the modified amount of tax, penalty or interest remaining due from the dealer and the date by which payment of such amount remaining due is required to be made. Further, the Directorate of Commercial Taxes (Directorate) issued (October 2013) instructions to the AAAs to issue such a notice within 15 days from the date of receipt of such order of modification.

During scrutiny of records of the Large Taxpayer Unit Charge Office, Kolkata, under the Directorate, it was found (December 2019) that in one case[218] the AAA assessed tax dues of a dealer at ₹ 5.67 crore, on 30 June 2016 and issued a notice of demand on the same date directing the dealer to pay the assessed dues within 10 August 2016. The dealer preferred appeal (August 2016) against the assessment order and the Appellate Authority through its order dated 29 August 2017 modified the assessment order of the AAA. During further scrutiny of the assessment case records, Audit found that though the Appellate Authority returned the case to the AAA in order to give effect to the same, no modified demand notice was raised with the dealer for realisation of the assessed dues till date of audit (December 2019).

On the basis of demand, as finalised by the Appellate Authority, the modified assessed tax as calculated in audit stood at ₹ 3.22 crore. Further, on requisition of the demand register in the charge office, the charge office replied (December 2019) that demand notices were being generated online. During scrutiny of the database of the Directorate, in this regard, it was noticed that particulars of the assessment order, appellate order, *etc.*, relating to the case were found uploaded therein, but no revised demand notice was found to be generated therefrom. Therefore, failure of the AAA in raising modified demand notice for realisation of tax from the dealer, even after considerable lapse of time, of around two years and three months, resulted in non-realisation of tax amounting ₹ 3.22 crore.

On this issue being pointed out (December 2019), the charge office did not furnish any reply. In absence of reply, the database of the Directorate was again

[217] *Postabazar*
[218] *Assessment period 2013-14*

checked (July 2021), but no such demand notice was found to be issued to the concerned dealer.

The matter has been referred to the Government in August 2021; reply was awaited (October 2021).

3.22 Incorrect determination of Turnover of Sales

Assessing Authorities (AAs) incorrectly determined turnover of sales at ₹ 2,783.59 crore instead of ₹ 3,166.98 crore in 17 cases. This resulted in short determination of turnover of sales by ₹ 383.38 crore with consequent short levy of tax of ₹ 30.49 crore.

Section 2 (41) of the West Bengal Value Added Tax (WBVAT) Act, 2003 (Act) defines sale price as any amount payable to a dealer as valuable consideration for the sale of goods which also includes prescribed sums charged for delivery as well as any tax, duty, or charges levied or leviable in respect of the goods. Section 2 (55) of the Act defines turnover of sales (ToS) in relation to any period as the aggregate of the sale prices/ parts of sale prices received/ receivable by a dealer in respect of sales of goods made during such period which remains after making prescribed deductions under the Act. Section 16 of the Act provides rates applicable for levy of tax on such part of the ToS, which remains after making prescribed deductions. Also, under Rule 110B of the West Bengal Value Added Tax Rules, 2005 (Rules) when a selected[219] registered dealer imports taxable goods from any place outside West Bengal, he is required to obtain an e-way bill in Form 50A electronically in respect of transport of such goods. Further, section 42 of the WBVAT Act, 2003 provides that correctness of ToS furnished in returns by the assesse may be verified with reference to accounts, registers or documents including those in electronic records maintained or kept by the dealer. Information in respect of ToS and utilisation of way bills is also available in the database of the Directorate of Commercial Taxes (Directorate).

I. Audit found in six charge offices that in 10 cases[220] the ToS of dealers was determined by Assessing Authorities (AAs) at ₹ 1,976.06 crore. However, further scrutiny of assessment case records including returns, reports and financial statements revealed that the ToS in these 10 cases stood at ₹ 2,179.89 crore, Out of these,

- in four cases, the AA/ Bureau of Investigation detected suppression of sales by dealers for several tax periods, however, the AAs included the suppressions of sales of two tax periods only in the ToS.
- in three cases, ToS assessed by AAs was less than that shown by the dealers in their books of accounts/ details of returns.
- in the remaining three cases, inadmissible deduction on account of excise duty, was allowed from the sale price while arriving at ToS.

II. Audit found in another two charge offices in seven cases[221], dealers while furnishing details of purchases and sales and the tax paid/ payable in their returns for the purpose of determination of ToS and assessment of tax thereof

[219] *Registered dealers who are required to furnish returns quarterly and electronically transmitting data in the returns.*

[220] *Charges Offices of **Beliaghata:** One case; **Beadon Street:** One case; **Durgapur:** Two cases; **Postabazar:** Three cases; **Salt Lake:** Two cases and **Shyambazar:** One case*

[221] *Charges Offices of **Bhawanipur:** Two cases and **Large Taxpayer Unit at Kolkata:** Five cases*

by AAs had disclosed the value of goods imported from outside West Bengal at ₹ 807.53 crore. However, scrutiny of details of waybills used by dealers, from the database of the Directorate, revealed that the value of goods imported by them from outside West Bengal stood at ₹ 987.09 crore instead of ₹ 807.53 crore.

Consequently, in 17 cases, there was underassessment of ToS by ₹ 383.38 crore and consequent short levy of tax of ₹ 30.49 crore.

On these being pointed out (between June 2019 and March 2020), four charge offices (Beliaghata, Bhawanipur, Durgapur and Salt Lake charge offices) while accepting the audit observations in six cases, involving short levy of tax of ₹ 8.66 crore, stated (between December 2019 and February 2020) that

- *Suo motu* revision would be processed in two case involving ₹ 5.72 crore.
- Action is being taken in one case involving ₹ 1.77 crore.
- Enquiry is under progress in one case involving ₹ 0.97 crore.
- Notices have been issued to the dealers in two cases involving ₹ 0.20 crore.

However, they did not furnish any report on levy and realisation of tax. In six cases involving ₹ 3.70 crore, four charge offices (Beadon Street, Durgapur, Postabazar and Shyambazar charge offices) furnished non-specific replies (between June 2019 and December 2019) like "required action would be taken"/ "the matter would be looked into"/ "verification is going on". In the remaining five cases, involving ₹ 18.13 crore, Large Taxpayer Unit charge office at Kolkata did not furnish any reply. Their reply/ further reply was awaited (September 2021).

The matter has been referred to the Government in September 2021; reply was awaited (October 2021).

DIRECTORATE OF EXCISE

3.23 Non-realisation of Hologram Wastage Regulatory Fee of ₹ 54.96 crore

Non-compliance of provisions of West Bengal Excise (Country Spirit) Rules, 2010, by a private licensee of a Country Spirit Bottling Plant, resulted in non-realisation of Hologram Wastage Regulatory Fee of ₹ 54.96 crore.

West Bengal Excise (Country Spirit) Rules (Rules), 2010 prescribes[222] that the licensee of the Country Spirit Bottling Plant (CSBP) shall affix, on every sealed and labelled bottle of country spirit, a Hologram supplied by the Excise Officer. Further, these Rules allows no wastage on account of lost and/ or damaged Holograms and the licensee of the CSBP is required to pay a Hologram Wastage Regulatory Fee (Fee) of ₹ 1,000.00 for each lost and/ or damaged hologram to the State Government. Scrutiny of records[223] of the office of the Excise Officer[224] (Officer-in-charge of the manufactory, *i.e.*, the CSBP) and office of the Superintendent of Excise (SE), Barrackpore Excise District, functioning under the Directorate of Excise, revealed the following:

[222] *Rule 35 (15) (1)*
[223] *Audit undertaken in July and August 2019*
[224] *Deputy Excise Collector*

i) From Annual Stock Taking Reports of a private licensee M/s Sengupta and Sengupta Private Limited of a CSBP, it was found that the licensee had wasted 5,49,648 holograms during the period from 2016-17 to 2018-19.

ii) The licensee never reported (in writing) such wastage to the Excise Officer-in-charge of the CSBP. Further, no steps were found to be taken by the Excise Officer-in-charge of the CSBP, in this regard. So, it remained unclear to Audit, as to whether, these holograms were actually used or not.

iii) Even after being detected during Annual Stock Taking of the CSBP, by Excise Authorities, in respect of each of the referred year, no action was found to be taken to raise the demand & realise the fee. For such wastage, though, the licensee was required to pay Hologram Wastage Regulatory Fee amounting ₹ 54.96 crore (₹ 1,000 per hologram on 5,49,648 holograms). However, it was observed that no payment was made by the licensee in this regard.

Thus, non-compliance to provisions of West Bengal Excise (Country Spirit) Rules, 2010, by a private licensee of a CSBP, resulted in non-realisation of Hologram Wastage Regulatory Fee of ₹ 54.96 crore.

On this being pointed out, the Directorate of Excise accepted (March 2020 and July 2021) the fact of wastage of 5,49,648 holograms. The reply indicated that based on the audit observation, an Inspection (February 2020) had been conducted by the Directorate, to enquire into the matter. The reply, based on the Inspection, contended that (a) though neither the Unique Identification Numbers (UINs) of these holograms nor comments of the Excise Officer were recorded in the hologram wastage register, damaged holograms were in the custody of the Excise Officer and (b) the recovery of UINs of these damaged holograms was not possible. Further, based on the Inspection, the reply mentioned that quantity of Country Spirit shown as issued by the CSBP, tallied with the issue position shown in the portal of the Government of West Bengal, maintained for this purpose. The reply contended that from the issue position as shown by the CSBP and the hologram wastage register it was clear that there was no scope of leakage of Country Spirit. The reply also contended that there was no scope of issue of non-duty paid Country Spirit Bottles using damaged holograms.

The contention of reply was not acceptable, as there was an element of doubt inherent in the reply itself, which stems from the fact that on the one hand the reply states that damaged holograms are with the concerned Excise Officer, while on the other hand, the reply takes recourse to the data provided by the CSBP regarding issue of Country Spirit to rule out the scope of such damaged holograms being used on Country Spirit Bottles.

The matter has been referred to the Government in August 2021; reply was awaited (October 2021).

3.24 Change in management

Three excise licensees had effected changes in their management without obtaining the requisite approval of the prescribed authorities and payment of stipulated fees.

West Bengal Excise (Change in Management) (WBECM) Rules, 2009 *inter alia* prescribes that any change in management of an excise licensee, *i.e.*, a company, society, co-operative society or a firm shall be brought to the notice of the Collector concerned, within a period of seven days with an application for

regularisation of the same. The Collector shall hold such enquiries as he may deem fit and shall, thereafter, forward the proposal for change in management of the excise licensee to the Excise Commissioner. The Excise Commissioner shall, after obtaining the proposal from the Collector, forward the same to the State Government, only in cases concerning the change in management in a Private Limited Company or a Public Limited Company, with his opinion, if any. In all other cases, the Excise Commissioner shall be the competent authority to allow such change in management.

Further, under the WBECM Rules, 2009, after getting approval of the State Government or the Excise Commissioner, as the case may be, the Collector shall allow change in management of a licensee after realising one and a half times the initial grant fee similar to the one applicable for grant of a new excise license of the same category, of the same local area.

During test check of records pertaining to excise licensees for the period 2017-19 in Collector of Excise (CE), Kolkata (North) and 2018-19 in Superintendents of Excise (SE), Howrah and Paschim Bardhaman, Audit cross-verified details of excise licensees with the data available on websites of the Ministry of Corporate Affairs, Government of India and the Excise Directorate, Government of West Bengal. Audit found[225] that three[226] excise licensees had effected changes in their management, though, the requisite approval of the prescribed authorities was not subsequently obtained. Even payment of stipulated fees was not made. In these three cases, fees amounting ₹ 46.50 lakh as applicable under WBECM Rules, 2009, was yet to be levied and consequently the same remained unrealised.

On these being pointed out (June 2019 to December 2019), SE, Howrah while accepting the audit observation in one case stated (August 2019) that the matter was under process and CE, Kolkata (North) in one case stated (June 2019) that the prayer for change in management submitted by the licensee later on had been duly enquired and sent (May 2019) to the Excise Commissioner, West Bengal. In the remaining one case, SE, Paschim Bardhaman stated (December 2019) that the case had been forwarded (December 2019) to the Deputy Excise Collector, Durgapur Range for detailed reply and updates related to the same would be communicated subsequently. Further responses from all three offices, are awaited (July 2021).

The matter has been referred to the Government in August 2021; reply was awaited (October 2021.).

DIRECTORATE OF REGISTRATION & STAMP REVENUE

3.25 Misclassification of Gift/ Settlement deeds

Misclassification of deeds of settlement and their registration as gift deeds by Registering Authorities resulted in short levy of stamp duty of ₹ 96.13 lakh.

In terms of the Transfer of Properties Act[227] (TPA), 1882, a person(s) (donor) can transfer movable or immovable property to another (donee) voluntarily and without consideration by way of gift; and the same is accepted by or on behalf

[225] *June 2019 to December 2019*

[226] ***SE, Howrah (Rural):*** *one hotel-cum-restaurant-cum-bar;* ***CE, Kolkata (North):*** *one restaurant-cum-bar and* ***SE, Paschim Bardhaman:*** *one restaurant-cum-bar*

[227] *Section 122*

of the donee. Further, as per TPA, property of any kind may be transferred, excepting for an unlawful consideration within the meaning[228] of the Indian Contract Act (ICT), 1872.

As per the Indian Stamp (IS) Act[229], 1899, gift to a member of the family attracts levy of stamp duty at the rate of half *per cent* on the market value of the property, whereas, under provisions[230] of the IS Act, a settlement[231] attracts levy of stamp duty at rates ranging between five and seven *per cent* depending upon the market value and the location of the property. Further, the IS Act provides[232] that if an instrument[233] is so framed as to come within two or more of the description where duties chargeable there-under are different, it shall be chargeable only with the highest of such duties.

Of 2,71,657 number of deeds registered during 2013-14 to 2018-19 in eight[234] Registering Offices (ROs), Audit test-checked 6,170 number of deeds. Of these cases, in 19 cases, it was found that deeds for transferring/ distributing properties to/ among family members were registered as gift deeds involving market value of ₹ 15.33 crore and the stamp duty of ₹ 7.68 lakh was levied and realised accordingly.

Further scrutiny of deeds revealed that transfers of properties in these deeds were not without consideration since these deeds contained conditions/ clauses like entitlement to free and absolute right of use, occupation and residence by the donor and her husband in the new premises without any hindrance and interference, till their lifetime; providing service (like bearing cost of treatment of donor/ maintenance of donor's livelihood); looking after donors during their lifetime (including donor's family, in two cases); meeting expenditure obligations towards municipal taxes/ electricity bills by donees for the transferred portion of properties; fulfilment of all needs of donor; payment of specified amount to donors; avoiding any future dispute and litigation amongst heirs or other members of the family, *etc.*, consequently rendering them classifiable as settlement. These Registering Authorities (RAs), however, misclassified these instruments as gift deeds and levied stamp duty of ₹ 7.68 lakh instead of registering them as settlement deeds and levying applicable stamp duty of ₹ 103.81 lakh. This misclassification of deeds of settlement and their registration as gift deeds by Registering Authorities, resulted in short levy of stamp duty of ₹ 96.13 lakh.

On this being pointed out the Additional District Sub-Registrar (ADSR), Howrah while accepting the audit observation in both cases stated (February 2020) that the documents would be sent to Deputy Inspector General of Registration (DIGR) (Range-III) for realisation of the stamp duty. RA, Kolkata in one case stated (February 2020) that the statement mentioned in the deed was

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[228] *Section 23*

[229] *Article 33 of Schedule-IA*

[230] *Articles 23 and 58 of the Schedule IA*

[231] *In terms of Section 2(24)(b) of the Indian Stamp Act, 1899, "settlement" inter-alia means any non-testamentary disposition, in writing, of movable or immovable property made for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him*

[232] *Section 6 and Schedule-I*

[233] *Includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded, as per Section 2(14) of the Indian Stamp Act, 1899*

[234] *i) Registrar of Assurance, Kolkata, Additional District Sub-Registrar, (ii) Alipore/ (iii) Baruipur/ (iv) Howrah/ (v) Raiganj/ (vi) Sabang/ (vii) Labhpur and (viii) District Sub-Registrar, Uttar Dinajpur*

a normal statement of gift which could not be treated as settlement. ADSR, Raiganj in two cases stated (February 2020) that responsibilities of donees were expressed in deeds rather than consideration or condition. ADSR, Sabang in two cases stated (July 2019) that the language enshrined in the recital of the deed was very common expectation with nothing objectionable with reference to consideration. ADSR, Labhpur in one case stated (September 2019) that expressing a human wish does not hinder the donee from possessing his property from the execution date of the property. Replies are not tenable as in these six cases there were conditions/ clauses like lifetime maintenance of livelihood of the donor (which includes maintenance of livelihood of donor's family also, in two cases), meeting treatment expenses, avoiding future complications/ disputes among family members, *etc.*, which showed that these executed deeds were not without consideration. In remaining 11 cases, Registering Authorities did not furnish any specific reply (July 2021).

The matter has been referred to the Government in July 2021; reply was awaited (October 2021).

Kolkata
The 14 January 2022

(SARAT CHATURVEDI)
Principal Accountant General (Audit-I)
West Bengal

Countersigned

New Delhi
The 27 JAN 2022

(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India