CHAPTER II: MINISTRY OF PETROLEUM AND NATURAL GAS

Indian Oil Corporation Limited

2.1 Undue enrichment through recovery of turnover tax from consumers

Indian Oil Corporation Limited collected ₹262.60 crore of turnover tax from consumers in Andhra Pradesh in violation of legal provisions of Andhra Pradesh General Sales Tax Act, 1957 and afterwards settled the legal case with Government of Telangana by making payment of ₹65.65 crore (25 *per cent)* against the total imposed penalty of ₹262.60 crore, thus resulting in undue enrichment to Indian Oil Corporation Limited by ₹196.95 crore.

Government of Andhra Pradesh (GoAP) introduced (*w.e.f.* 30 November 2001) new sub-sections 5-A (1-A) to (1-C) to impose turnover tax under Andhra Pradesh General Sales Tax Act, 1957 (APGST Act). Sub-section 5-A (1-A) mandated that every dealer shall in addition to existing taxes will pay turnover tax @ two paise on every rupee *inter alia* in respect of petrol and diesel oil. However, no dealer shall be entitled to collect turnover tax from purchasers and collection of turnover tax from purchasers would attract penalty of equivalent amount of turnover tax as per sub-section 5-A (1-B) and sub-section 5A (1-C) respectively.

Oil Marketing Companies (OMCs) approached Ministry of Petroleum and Natural Gas regarding irrecoverable turnover tax in Andhra Pradesh from consumers. Ministry of Petroleum and Natural Gas clarified (August 2002) to OMCs that no compensation on account of under recoveries due to this tax would be payable beyond 31 March 2002. However, OMCs may recover the additional costs by appropriately revising the Retail Selling Prices (RSP) of Motor Spirit and High-Speed Diesel in Andhra Pradesh. Clarification from Ministry of Petroleum and Natural Gas was in contravention of the legal provision of the APGST Act. Indian Oil Corporation Limited (IOCL) started recovery of turnover tax from the consumers as state surcharge by including the same in RSP of Motor Spirit and High-speed Diesel thereby increasing RSP from 1 September 2002.

Commercial Tax Department of GoAP imposed penalty under sub-section 5-A (1-C) of APGST Act, for recovering turnover tax from consumers in contravention to the APGST Act *ibid* and raised demands in May 2006, June 2007 and May 2008 for the years 2002-03, 2003-04 and 2004-05 respectively aggregating ₹262.60 crore[1].

IOCL filed writ petitions against these demands and obtained stay order (May 2006/ June 2007/ May 2008) from the Hon'ble High Court of Hyderabad for the years 2002-03,

[1] *₹52.17 crore on 31 March 2006 for 2002-03, ₹93.43 crore on 31 March 2007 for 2003-04, ₹95.45 crore on 31 March 2008 for 2004-05 and ₹21.55 crore on 28 March 2007 for 2003-04*

2003-04 and 2004-05. The writ petitions were transferred (2008) to the Hon'ble Supreme Court. However, Hon'ble Supreme Court dismissed (10 October 2012) the appeals and directed Appellate Authority to entertain the appeals if preferred within 30 days. Accordingly, appeals for 2002 to 2005 were filed (November 2012) with first Appellate Authority, which was rejected (November 2013) by the Appellate Authority as well as by Sales Tax Appellate Tribunal in April 2014. However, while admitting tax revision cases filed (2014) by IOCL, Hon'ble High Court of Hyderabad granted (August 2014) conditional stay on payment of 10 *per cent* of penalty. IOCL challenged the said order before Hon'ble Supreme Court, which was dismissed (September 2014). Accordingly, IOCL paid ₹24.11 crore in 2014 towards 10 *per cent* penalty[2]. The Tax Revision cases filed in the High Court remained pending till 2020.

In the meantime, IOCL received (March 2018) an offer for an out of court settlement from the Government of Telangana[3]. Later IOCL obtained (May 2019) a legal opinion from Solicitor General of India who advised to opt for an out of court settlement on the basis of quantum of penalty, the long drawn pendency of the dispute and overall merit of the matter on the facts as well as law. Subsequently with mutual understanding, Government of Telangana initiated an out of court settlement under which a Memorandum of Understanding was entered in (27 March 2020) between IOCL and Government of Telangana wherein IOCL agreed to pay 25 *per cent* of penalty amount i.e., ₹65.65 crore and withdraw all appeals pending before various judicial forums. The Government of Telangana in turn agreed to waive off the balance penalty. Accordingly, IOCL paid (30 March 2020) ₹41.54 crore after adjusting pre-deposit of ₹24.11 crore.

Audit observed that collection of turnover tax from the consumers of Andhra Pradesh by IOCL, as also advised by the Ministry of Petroleum and Natural Gas, was in contravention of the legal provisions of the APGST Act resulting in payment of penalty amounting to ₹65.65 crore and undue enrichment to IOCL by ₹196.95 crore, through recovery of turnover tax from consumers.

The Management replied (October 2020) that contravention of Section 5-A (1-C) of the APGST Act would arise only when IOCL collects any amount by way of turnover tax or purporting to be by way of turnover tax from the buyers. Even if it is assumed that the amount is collected purporting to be by way of turnover tax, it should have been conveyed/ denoted/ expressed/ indicated etc. None of the ingredients were present when invoiced to customers in the instant case. The increase in the price of Motor Spirit and High-Speed Diesel through state specific cost/ state surcharge in the state of Andhra Pradesh with effect from 01 September 2002 was to meet cost of operation in the state on sale of these products.

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[2] ***The matter was pending before the Joint Commissioner (Appeal) hence no pre-deposit was paid for IOCL***

[3] ***Successor State which has right to recover arrears in this instant case as per Section 50 of the Andhra Pradesh Reorganisation Act, 2014***

The increase or decrease in price is a regular feature in the business/ trade on reviewing the cost of operation.

Ministry replied (June 2021) that with the introduction of turnover tax by Andhra Pradesh Government w.e.f. 01 December 2001, the impact of turnover tax was included in the price revision w.e.f. 01 September 2002 for compensating the OMCs for irrecoverable taxes. Inclusion of the state surcharge to recover the additional cost of such irrecoverable state levies were in practice for long time during the Administrated Price Mechanism period and it is the consumers of the respective state who have been bearing the burden of such taxes.

The reply of the Management/ Ministry is not tenable because clarification of Ministry of Petroleum and Natural Gas to recover the cost of irrecoverable turnover tax on Motor Spirit and High-Speed Diesel @ two *per cent* in Andhra Pradesh as a state surcharge, collected through the consumers selling price, was *ultra vires* of APGST Act. Moreover, while awarding the case against IOCL, both Appellate Authority and Sales Tax Appellate Tribunal observed that the collection of turnover tax as part of the price was not permissible as per sub-section 5-A (1-B), and it attracted penalty under sub-section 5-A (1-C) of the APGST Act. Further, out of court settlement of penalty payment with Government of Telangana also substantiated the unjustified action of IOCL in shifting of turnover tax burden of ₹262.60 crore to consumers in the State of Andhra Pradesh. Ministry also while justifying the acceptance of State Government proposal for out of court settlement stated that Tribunal Order is a speaking order giving reasons for the levy of demand and it would have been a challenge to overcome the observations of the Tribunal.

Thus, unlawful collection of turnover tax from consumers of ₹262.60 crore and after adjusting ₹65.65 crore out of court settlement of penalty amount resulted in undue enrichment to IOCL to the extent of ₹196.95 crore.

2.2 Non-adherence to statutory requirement of pollution clearance resulted in infructuous expenditure

Non-compliance to the statutory requirement of obtaining prior clearance from Pollution Control Board, Assam for commissioning of a Pet Coke Boiler resulted in infructuous expenditure of ₹120.38 crore, while also forgoing the cost benefits of ₹79.40 crore per year.

Section 21 of Air (Prevention & Control of Pollution) Act, 1981 as amended requires that no person shall without the previous consent of the concerned State Pollution Control Board establish or operate any industrial plant in an air pollution control area. Further, Government of Assam declared the whole State of Assam as Air Pollution Control Area under Section 19 of the Air (Prevention & Control of Pollution) Act, 1981, with effect from 12 May 1993. Section 25 of Water (Prevention & Control of Pollution) Act, 1974 inter-alia states that no person without the previous consent of the concerned State Pollution Control Board shall establish or take any step to establish any industry; operation or process or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or land.

To replace two old and less efficient oil fired boilers, Indian Oil Corporation Limited (Company) decided (June 2015) to procure and install a Petcoke fired Boiler (Boiler) for its Guwahati Refinery (Refinery) at an estimated cost of ₹132.58 crore (revised to ₹163.09 crore on March 2018). The new Boiler was expected to reduce the power generation and steam cost of the Refinery by ₹79.40 crore per year.

The Detailed Feasibility Report for installation of the Boiler was approved in December 2015 which clearly mentioned that 'Consent to Establish/ No Objection Certificate' ought to be obtained from the concerned State Pollution Control Board before construction/ setting up of the Boiler. The Company, however, did not apply for such prior consent from the Pollution Control Board, Assam and the project work was started in September 2016. The Company applied for 'Consent to Establish/ No Objection Certificate' to the Pollution Control Board, Assam in April 2018, when the project was already completed to the extent of 70-80 *per cent*. Thereafter, Pollution Control Board, Assam served (August 2018) a show cause notice to the Company with the instruction to stop all activities regarding the Boiler project with immediate effect. The show cause notice inter-alia stated that the Company did not obtain necessary prior consent from Pollution Control Board, Assam for the project work. As the Company did not get the consent from Pollution Control Board, Assam till March 2021 resulting in uncertainty on completion of the project, the Company made a provision of ₹120.38 crore for the cost incurred on the project in their books of accounts for the year 2020-21.

Audit observed that despite being aware of the statutory requirement of getting a 'Consent to Establish/ No Objection Certificate' from Pollution Control Board, Assam prior to construction of any project, the Company started the project without the certificate, which led to stoppage of all project activities after an expenditure of ₹120.38 crore had already been incurred. This resulted in the entire expenditure of ₹120.38 crore incurred on the project becoming infructuous. In addition, the cost benefit of ₹79.40 crore per year was also foregone due to non-commissioning of the Boiler.

The Management stated (March 2021) that the Company applied to the Ministry of Environment, Forest and Climate Change (MoEF&CC) for grant of environment clearance in August 2016 and thereafter, on the instruction of MoEF&CC it had applied to Pollution Control Board, Assam for granting consent in April 2018. Further, the Company mentioned that they had proactively applied to the Pollution Control Board, Assam for Consent to Establish in February 2017. The Management also added that the Company appointed M/s Thermax Babcock & Wilcox Solutions to explore possibility of running the Boiler with other feedstock (100 *per cent* gas/ fuel oil firing boiler) and received a draft feasibility study report in March 2021.

The reply of the Management is not tenable as the initial approach of the Company (August 2016) to MoEF&CC for environment clearance was not at all linked with 'Consent to Establish/ No Objection Certificate' required from Pollution Control Board, Assam, which was essential prior to start of construction of any project, likely to discharge sewage or trade effluent into a stream or well or sewer or land. Therefore, assertion of the Management that they had proactively applied for Consent to Establish to Pollution Control Board, Assam in February 2017, was not a proactive action as they had approached Pollution Control Board, Assam after five months of starting of the project. Further, the draft feasibility study report of Thermax Babcock & Wilcox Solutions does not mention additional time and cost required for conversion of the Boiler which indicates uncertainty over completion and sustainability of the project in future.

Thus, non-compliance to statutory requirement by the Management resulted in the entire expenditure of ₹120.38 crore incurred on the project becoming infructuous, in addition to forgoing the cost benefits of ₹79.40 crore per year due to non-commissioning of the Boiler.

The Audit paragraph was issued to the Ministry in May 2021; their response was awaited (July 2021).

Numaligarh Refinery Limited

2.3 Idle investment towards installation of Naptha Splitter Unit

Idling of Naphtha Splitter Unit plant worth ₹82.70 crore due to improper due diligence.

Numaligarh Refinery Limited (Company) was commissioned in 1999 having a capacity to process 3 million metric tonnes per annum crude oil and the main products included Liquid Petroleum Gas, High Speed Diesel and Superior Kerosene Oil, etc. Intermediary products of the Company included Straight Run Naphtha, reformate, etc. The production of Straight Run Naphtha during 2001 to 2006 ranged between 1.44 to 2.06 lakh metric tonnes per annum. Therefore, accumulation of Straight Run Naphtha became a problem. The Company tried to evacuate this accumulated Straight Run Naphtha by exporting or through domestic sale. The export of Straight Run Naphtha from Haldia impacted net sales realisation from the product due to higher transportation cost. Therefore, export of Straight Run Naphtha was not a viable option.

The Company envisaged two other options to solve the problem of accumulation of Straight Run Naphtha viz., setting up of Motor Spirit Plant (2002) to use Straight Run Naphtha to produce Motor Spirit and setting up of Naphtha Splitter Unit (2004) to produce Petrochemical grade Naphtha from Straight Run Naphtha. Motor Spirit Plant was an attractive option because all the refineries[4] in the North-Eastern Region of the country were eligible to pay excise duty only at the rate of 50 *per cent* of the applicable excise duty[5] payable on production of Motor Spirit. Therefore, a Motor Spirit Plant of 2.25 lakh metric tonnes per annum capacity was commissioned in July 2006. The utilisation of Straight Run Naphtha for producing Motor Spirit increased after commissioning and stabilisation of the Motor Spirit Plant from 1.10 lakh metric tonnes per annum to 3.11 lakh metric tonnes per

[4] *Digboi Refinery, Guwahati Refinery, Bongaigaon Refinery and Numaligarh Refinery Limited*
[5] *Government of India notification dated 13 May 2002*

annum during 2006-07 to 2014-15. Consequently, accumulation of Straight Run Naphtha reduced substantially.

The Company in the meantime entered (June 2010) into an agreement with Brahmaputra Cracker and Polymer Limited for 15 years from the date of its commissioning for supply of 1.60 lakh metric tonnes per annum of Petrochemical Grade Naphtha. As per the agreement, in case of short supply, the Company would reimburse additional price paid by Brahmaputra Cracker and Polymer Limited over and above the contractual price of Petrochemical Grade Naphtha for procuring it from other sources.

The Company commissioned Naphtha Splitter Unit in November 2013 at a cost of ₹82.70 crore to convert Straight Run Naphtha to Petrochemical Grade Naphtha to honour its commitment to Brahmaputra Cracker and Polymer Limited. The commercial operation of Brahmaputra Cracker and Polymer Limited commenced in January 2016 i.e., two years and three months after commissioning of Naphtha Splitter Unit.

In this regard, Audit observed the following:

- The Company required approximately 1.81 metric tonnes of Straight Run Naphtha to produce 1 metric tonne of Petrochemical Grade Naphtha, i.e., almost double the quantity. Due to commissioning of Motor Spirit Plant, the maximum surplus Straight Run Naphtha available during 2007-08 to 2017-18 was 52,000 metric tonnes (in 2013-14). Since adequate Straight Run Naphtha was no longer available, the agreement of the Company with Brahmaputra Cracker and Polymer Limited for committed supply of 1.60 lakh metric tonnes per annum of Petrochemical Grade Naphtha was not prudent.

- The above is corroborated by actual performance of Naphtha Splitter Unit after its commissioning in Novemebr 2013. The Company could produce only 19.5 metric tonnes, 53.6 metric tonnes, 12.1 metric tonnes and 15.8 metric tonnes of Petrochemical Grade Naphtha during the years 2013-14 (since November 2013), 2014-15, 2015-16 and 2016-17 respectively and the capacity utilisation ranged between 7.56 *per cent* and 33.5 *per cent*. The Naphtha Splitter Unit remained idle during the years 2017-18 to 2020-21.

- The Company could not supply the scheduled quantity of Petrochemical Grade Naphtha to Brahmaputra Cracker and Polymer Limited due to low utilisation of Naphtha Splitter Unit.

- On account of short supply of Petrochemical Grade Naphtha to Brahmaputra Cracker and Polymer Limited, the Company incurred an additional expenditure of ₹163.77 crore on the differential price between the contracted and actual price.

Thus, there was idle investment in setting up of Naphtha Splitter Unit plant worth ₹82.70 crore due to lack of due diligence.

While accepting the audit observation that Naphtha Splitter Unit remained idle, the Management stated (December 2020) that the decision regarding installation of Naphtha Splitter Unit was taken for assured supply of Petrochemical Grade Naphtha to Brahmaputra

Cracker and Polymer Limited and to evacuate surplus Straight Run Naphtha. It was further contended that the Naphtha Splitter Unit may be utilised in the future.

The reply of the Management is not tenable as the Company had already installed Motor Spirit Plant to solve the problem of evacuation of Straight Run Naphtha in 2006-07. Besides, the use of Straight Run Naphtha in Motor Spirit production yielded better margin than in production of Petrochemical Grade Naphtha. Further, the contention of the Management that the Naphtha Splitter Unit may be utilised in future does not appear to be feasible as the value of the Naphtha Splitter Unit was impaired during the financial year 2020-21 due to its continuous non-operation since 2017-18. The feasibility of operating Naphtha Splitter Unit in future by purchasing Straight Run Naphtha is also remote as cost of externally sourced Straight Run Naphtha (₹46,240 per metric tonne in 2019-20) was more than sale price of Petrochemical Grade Naphtha (₹35,352 per metric tonne in 2019-20).

Thus, lack of prudence on the part of Management regarding installation of Naphtha Splitter Unit led to an idle investment of ₹82.70 crore.

The Audit paragraph was issued to the Ministry in January 2021; their response was awaited (July 2021).

Oil and Natural Gas Corporation Limited

2.4 Loss due to flaring of High Pressure gas

High Pressure gas valuing ₹816.08 crore was flared in Mumbai High field of ONGC during 2012-13 to 2019-20 due to non-availability of standby Process Gas Compressors, power shut downs and frequent tripping of Process Gas Compressor.

Mumbai High field is mainly an oil field and gas produced along with crude oil is called associated gas. Separation of well fluid into oil, water and gas is done in three stages i.e., in High Pressure separator, Low Pressure separator and surge tanks at the various process platforms of Mumbai High field. Gas coming out of High Pressure separator at high pressure is known as High Pressure gas. The well fluid after separation in High Pressure separators is sent to Low Pressure separators where the balance gas, which is of lower pressure, gets separated. High Pressure gas coming out of High Pressure separator is further compressed in Process Gas Compressor and is fed to the wells for gas lift purpose and balance gas is transported to the oil and gas processing plant of Oil and Natural Gas Corporation Limited (ONGC) located at Uran for further processing and sale to consumers.

Any disruption in compression due to power shutdown, tripping of Process Gas Compressor, process upsets, etc., leads to flaring[6] of valuable High Pressure gas due to inbuilt safety mechanism in the Process Gas Compressor. Thus, in order to maximise gas production, it is imperative that all equipment is maintained and run effectively so that there

[6] ***In the event of tripping of Process Gas Compressor, the High Pressure gas coming out of High Pressure separators bypasses the Process Gas Compressor and gets automatically flared due to inbuilt safety mechanism in the system.***

is no loss of production. Flaring of gas also has an adverse impact on environment as the emission of carbon dioxide leads to greenhouse gases and global warming. During 2012-13 to 2019-20, total of 1,227.343 mmscm (million metric standard cubic meters) High Pressure gas valuing ₹1,021.08 crore was flared. Value of High Pressure gas flared due to avoidable reasons viz., power shut down, non-availability of standby Process Gas Compressor, and tripping of Process Gas Compressor was ₹816.08 crore ***(Annexure-I)***.

In this regard, Audit observed that 980.523 mmscm High Pressure gas, valuing ₹816.08 crore, was flared during 2012-13 to 2019-20 on account of the following:

i) Power shut down: Power supply is required for operating the control panels of Process Gas Compressor. During 2012-13 to 2019-20, there were 62 instances of power shut down. This was because of the fact that the battery banks at the process platforms were as old as 26 years and could not provide adequate back up during power shut down. Consequently, the control panels of Process Gas Compressors could not be operated, which resulted in gas flaring.

ii) Non-availability of standby Process Gas Compressors: Out of 29 Process Gas Compressors, five were to be kept as standby for utilisation during maintenance/ overhaul/ breakdown of Process Gas Compressor. However, due to operational problems, all 29 Process Gas Compressors were required to be run. Thus, due to non-availability of standby Process Gas Compressors during routine maintenance/ inspection jobs at platform and overhaul of Process Gas Compressors, gas had to be flared. During 2012-13 to 2018-19, there were 302 incidents where gas was flared due to non-availability of standby Process Gas Compressors. In 2019-20, seven Process Gas Compressors were not available for more than a month and there was no standby Process Gas Compressor.

iii) Tripping: Total quantity of 196.947 mmscm High Pressure gas was flared on account of frequent tripping of Process Gas Compressors. As against the vision of Offshore Maintenance Group of ONGC to sustain 'zero trips', the instances of Process Gas Compressor trips were 2,534 during 2012-13 to 2019-20. The frequent tripping was attributed to the following:

- Mumbai High asset has 29 Process Gas Compressors[7] of which 22 were 15 to 36 years old. Main components of Process Gas Compressors like power turbine, compressors, gas generators are required to be overhauled at intervals as stipulated by the original equipment manufacturer. The power turbine is required to be overhauled after 1,00,000 hours and compressors after 50,000 hours. There have been delays in overhauling of these components of Process Gas Compressors. Running hours of power turbine and compressors of 16 Process Gas Compressors had far exceeded the stipulated hours ***(Annexure-I)***. During

[7] ***11 Process Gas Compressors were installed between the years 1983-1990, 10 Process Gas Compressors in 1994, one Process Gas Compressor in 2004 and seven Process Gas Compressors between 2009 and 2015***

2014-15 to 2019-20, there were 160 instances[8] of tripping on account of issues related to power turbine and 360 instances of tripping on account of compressor related issues.

- The gas generators are to be overhauled after 24,000 hours and are to be given due attention and priority for immediate replacement once they fail or are due for overhaul as they are run continuously taking full load. During 2014-15 to 2019-20, there were 286 instances of tripping due to issues relating to gas generators.

- 'Control systems' of Process Gas Compressors are required to be replaced after 10 years. Out of 21 Process Gas Compressors wherein the control system was required to be replaced/ upgraded, control system was replaced only in nine Process Gas Compressors as at the end of March 2021. In the two year period i.e., 2018-19 to 2019-20 there were 163 instances[9] of tripping due to issues related to control systems.

In September 2012, the original equipment manufacturer had carried out health check-up of 24 Process Gas Compressors. Original equipment manufacturer observed that 'gas flow passage' had worn out due to deterioration of compressor which was operating for about 25 years. Therefore, original equipment manufacturer recommended overhaul of nine Process Gas Compressors for safe and economical operation. ONGC, however, moved the proposal for 'rotors' and 'assembly' only in January 2016 i.e., after more than three years and the material was delivered in June 2018 and March 2019. Overhauling was completed (December 2019) in two Process Gas Compressors only and balance jobs in seven Process Gas Compressors is proposed to be got done in 2021-22. As of September 2020, there were 21 Process Gas Compressors more than 25 years old.

Thus, due to non-availability of standby Process Gas Compressors, power shut downs and frequent tripping of Process Gas Compressors, High Pressure gas valuing ₹816.08 crore was flared in Mumbai High field of ONGC during the period 2012-13 to 2019-20.

Management/ Ministry stated (June 2020) that:

- Overall flaring at offshore is inclusive of technical flaring which is a safety requirement. Technical flaring is required to avoid escape of unburnt hydrocarbons in the atmosphere to avoid potential fire explosion hazard around the installation.

- Unavoidable flaring happens during scheduled maintenance or tripping of equipment such as Process Gas Compressors and turbine generators and also during unplanned process upsets.

- During 2013-14 to 2015-16, overhaul of gas generators suffered as business transactions with Rolls-Royce had to be stopped as per instructions from the Ministry of Defence.

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[8] ***As per the Management, tripping data for 2012-13 and 2013-14 was not available***

[9] ***Break up for earlier years is not readily available with Management as this was clubbed under Instrumentation***

- Out of 15 power turbines which were due for overhauling, four were completed, one was under execution and balance 10 would be completed by March 2021. Out of 21 compressors, six were completed and balance 15 would be completed by March 2022.
- Control system of six Process Gas Compressors has been upgraded, three systems have been replaced and three are under implementation which will be completed by December 2020. Order for balance nine systems will be placed by March 2021.
- In cases, where the components are becoming due for overhaul around the same time their overhauling is clubbed together to reduce the equipment downtime.
- Age of a compressor as such may not have an adverse effect on its performance as after every overhaul which is a zero-hour overhaul, reliability of service is ensured till the original equipment manufacturer recommends next overhaul.
- In case of non-availability of required Process Gas Compressors due to routine maintenance/ major break downs/ inspection/ engine replacements/ overhauling jobs, flaring is controlled to minimum possible quantity by closing free gas wells and diverting gas to other platforms.
- Periodic capacity tests are conducted on the battery banks as part of regular maintenance and based on the test results condition based replacement of UPS, battery chargers and battery banks were taken up during the period 2012-13 to 2018-19.

The reply of the Management/ Ministry needs to be viewed in the light of the following:

- The Internal Audit of ONGC had clarified (December 2020) that some quantity of low pressure gas is required to be flared, which is called technical flaring. We have commented on flaring of High Pressure gas, which is not meant to be flared.
- During maintenance activity, the standby Process Gas Compressor is required to be put in operation. However, as there was no standby Process Gas Compressor, the gas was being flared.
- As of March 2021, overhauling of eight power turbines and 11 compressors in respect of 13 Process Gas Compressors were pending.
- As per ONGC policy on floats, each platform should have one unit of gas generator as float as the equipment on breakdown needs to be put in service immediately. However, ONGC did not have any float for gas generator.
- Control system of 21 Process Gas Compressors was required to be upgraded/ replaced in the year 2000. As of March 2021, control system of only nine Process Gas Compressors has been upgraded/ replaced.
- Overhauling needs to be done as and when it becomes due for smooth and trouble free operations. Further, cost of overhauling also increases with increase in run hours.
- The vision of Management of 'Zero trips' needs to be viewed in light of the fact that the Project Completion Report for Gas Flaring Reduction Project (with the assistance from

World Bank - Report No. 18463) stated that the Company has eliminated flaring completely from 1993-94 and that there would be no more flaring except for technical reasons such as low pressure tail gas.

- Age of compressor does have a bearing on the performance. To illustrate, in case of NQG Process Gas Compressor C (installed in 1986), major repairs were undertaken incurring an expenditure of ₹85.44 crore in February 2017. However, during 2017-18 to 2018-19, the Process Gas Compressor had tripped more than 30 times due to various issues pertaining to power turbine, gas generator and compressor.

- Mumbai High field is an oil field wherein the oil wells are on production and associated gas continues to be flared.

Thus, non-availability of standby Process Gas Compressors, power shut downs and frequent tripping of Process Gas Compressors resulted in flaring of High Pressure gas valuing ₹816.08 crore in Mumbai High field of ONGC during the period 2012-13 to 2019-20.

Recommendation No. 1

ONGC should pay attention for preventive maintenance and adhere to the overhauling schedule as prescribed by the original equipment manufacturer so as to minimise the flaring of High Pressure gas at Mumbai High fields. ONGC may also fix responsibility on the officials responsible for lapses which leads to avoidable flaring of High Pressure gas.

2.5 Loss due to acquisition of low-lying marshy land and delay in putting up of land for its intended use

Oil and Natural Gas Corporation Limited proposed to acquire land with basic infrastructure facilities to augment its storage facilities at Kakinada. However, the company's decision to acquire a low-lying plot resulted in incurring additional expenditure of ₹36.19 crore in filling the plot. Besides, delay in hiring a consultant and awarding construction contract resulted in payment of extension of time fee of ₹12.97 crore to Andhra Pradesh Industrial Infrastructure Corporation Limited.

Oil and Natural Gas Corporation Limited (ONGC/ Company) proposed (March 2014) to acquire land admeasuring 25 acres with basic infrastructure facilities within 10-15 kilometers of Kakinada Port for storing and handling materials procured for its eastern offshore operations. On inspection of available sites of Andhra Pradesh Industrial Infrastructure Corporation Limited (APIIC), the company selected (June 2014) two plots admeasuring 20 acres in Vakalapudi village. However, APIIC informed (July 2014) the company about availability of land admeasuring 47 acres in a plot of 72 acres at industrial park area of Vakalapudi. The company requested (July 2014) APIIC to allot the entire plot of 72 acres citing upcoming KG-DWN-98/2 project. APIIC allotted (February 2015) the said land admeasuring 72.14 acres (after excluding litigated area of 1.08 acres in 73.22 acres plot), which was low-lying, inundated with water and covered with jungle and on *'as-is-where-is'* basis upon payment of ₹123.50 crore (at ₹1.71 crore per acre). The company took advance possession (March 2015) of land and sale agreement was registered (April 2016) for 71.13 acres as the balance 1.01 acres was under litigation since November 2015. The total land acquisition cost was ₹128.93 crore as the company incurred frontage charges, processing fee, stamp duty and registration fees etc.

Audit scrutiny of this land acquisition revealed the follows:

i) Acquisition was without following the due process: As per delegation of powers for an un-budgeted capital expenditure above ₹50 crore, approval of Board of Directors was required. In this case, the acquisition was done without the approval of the Board of Directors.

ii) Acquired land was on 'as is where is basis': As per APIIC's regulations of 2012, generally, industrial parks shall have minimum infrastructure such as roads, water supply, power supply, land filling etc. While ONGC initially sought to acquire land with basic infrastructure facilities, it finally ended up acquiring land which was seven feet below land level, and hence clearly un-developed. An expenditure of ₹36.19 crore had to be incurred towards land filling.

iii) Penalties due to delay in land utilitsation: As per the land sale agreement, the company was required to put the land for its intended purpose within two years from the date of taking over possession. However, delay of two years in hiring the consultant (March 2017) and four years in awarding the construction contract (March 2019) necessitated the company to pay avoidable extension of time fee of ₹12.97 crore to APIIC and extension till March 2021 was obtained (March 2020).

Thus, the decision to acquire a plot admeasuring 72.14 acres with estimated average depth of seven feet below land level at land rates of developed plots resulted in incurring additional expenditure of ₹36.19 crore in filling the low-lying land. Besides, delay in hiring the consultant and awarding construction contract resulted in payment of extension of time fee of ₹12.97 crore to APIIC.

The Ministry stated (March 2020/ February 2021) that detailed estimation of work was not practicable due to slushy/ marshy land and unsafe conditions of site/ hindrance to traffic movement. Delay in construction of designed facilities at storage yard is due to various court cases against APIIC wherein ONGC was made party and the company is regularly following up the court cases along with APIIC.

The response of the Ministry is not acceptable since the company acquired low-lying land inundated with water and covered with jungle at notified rates of developed plot ignoring that it had previously selected developed land of 20 acres. The company failed to conduct due diligence as it acquired land, a part of which was already under litigation.

Thus, the company's failure to assess and acquire land based on its project requirements resulted in incurring additional expenditure of ₹36.19 crore in filling the low-lying land. Besides, delay in hiring the consultant and awarding construction contract resulted in payment of extension of time fee of ₹12.97 crore to APIIC.

2.6 Avoidable expenditure due to delay in procurement of regular casing pipes

Delay in processing of the tender for procurement of premium threaded casing pipes by Oil and Natural Gas Corporation Limited for the years 2015-16 and 2016-17 forced Bassein & Satellite Asset, Mumbai to use 2 to 2.5 times costlier casing pipes, which resulted in avoidable expenditure of ₹21.56 crore.

As per clause 34.10 of the Integrated Materials Management Manual of the Oil and Natural Gas Corporation Limited (ONGC), a maximum of 136 days is provided for various activities and processing of tenders. An additional 20 days are allowed for each round of clarifications. Further, an additional 5 days and 15 days are allowed wherever approval of Director and the Executive Procurement Committee (EPC) is required.

Corporate Material Management Department of the ONGC received indents for premium casing pipes[10] for the years 2015-16 and 2016-17 from Mumbai High Asset in April 2015 and October 2015 respectively. It also received indents from Bassein & Satellite Asset for the same period in August 2014 and October 2015 respectively. The Tender Committee recommended (December 2016) floating of Notice Inviting Tender (NIT) for casing pipes under 11 Groups and the same was published in February 2017 by clubbing the requirements of both the years. Against the said tender, four offers were received on e-portal. After two rounds of clarifications, the Tender Committee recommended (September 2017) for opening of price bid of M/s Oil Country Tubular Limited, Hyderabad (OCTL) for Groups[11] 1 to 7 & 11 and of M/s TMK Middle East for Group 3-A subject to receipt of validity of bid. Accordingly, price bid was opened on 19 September 2017. After detailed deliberation, the Tender Committee recommended (November 2017) to place order on M/s OCTL for Groups 2, 3, 5, 6 & 7 for ₹259.99 crore and to re-invite the tender for Groups 1, 4, 8, 9, 10 & 11, which was endorsed (November 2017) by Director (Onshore).

Accordingly, Notice of Award (NOA) was placed (05 December 2017) on M/s OCTL. However, despite several reminders, M/s OCTL failed to submit the performance bank guarantee within the specified cut-off date due to which it was proposed (January 2018) to invoke the earnest money deposit of ₹3.67 crore. M/s OCTL requested (January 2018) ONGC to convert the earnest money deposit into performance bank guarantee and to consider deducting 13 *per cent* from each supply invoice till the balance performance bank guarantee value was covered. In view of urgency of requirement and based on the Tender Committee's recommendation, the Director (Onshore) approved to (i) convert the earnest money deposit amount as performance bank guarantee and (ii) deduct 25 *per cent* value of each invoice and keep the amount till the performance bank guarantee amount was fully recovered. M/s OCTL was also advised to supply 12,000 meters of casing pipes within six weeks as against the stipulated period of 23 weeks from the date of issuance of the detailed purchase order to meet the urgent requirement. After receipt of confirmation from

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[10] *9-$^5/_8$", L-80, 47 pound per feet (ppf) specification*

[11] *1A, 2A, 3A, 4A, 5A, 6A, 7A, 11A*

M/s OCTL, purchase order was placed in February 2018. However, the supplier failed to honor the purchase order despite repeated requests and finally, the purchase order was cancelled (November 2018).

The Asset Manager, Bassein & Satellite Asset, Mumbai brought (August 2017) to the notice of the Corporate Material Management, Delhi that stock of 9-$^{5}/_{8}$" L-80 premium casing pipes in Western Offshore Asset and Basin was 'nil' and further submitted that due to non-availability of the casing pipe and to avoid idling of rig, the Asset was forced to use 2 to 2.5 times costly 13 chrome L-80 premium casing pipe in two wells of Bombay High platform and Vasai East Wells.

Thus, due to non-finalisation of regular tender for procurement of premium threaded casing pipes on time, the Bassein & Satellite Asset was forced to use costlier casing pipes, which resulted in avoidable expenditure of ₹21.56 crore ***(Annexure-II)***. Operations at Mumbai High Asset were continued by using casing pipes of similar type arranged from other establishments of the Company.

ONGC stated (January 2020) that:

- Centralized procurement of casing pipes is being done through International Competitive Bidding tenders by Corporate Material Management Department on yearly basis and all indents generated by Assets/ Basins are being consolidated at Corporate Material Management for tendering purposes. The tender for procurement of premium thread casing pipes was processed in right earnest; however, there were delays on various issues beyond the control of ONGC.

- Since there was shortage of premium casing pipes, ONGC had no option but to use 13 chrome casing pipes to sustain the operations and drilling of two wells of Bombay High platform and Vasai East. Had the 13 chrome casing pipes not been lowered in place of premium casings, the rigs would have to be moved to different locations, thereby entailing mobilization and demobilization charges. Thus, ONGC managed the operations and avoided costly shutdown and cost overrun.

- There was delay in processing of the tender due to changes in premium connections of casing pipes, ascertaining whether Anti Dumping Duty is applicable for procurement of premium casing pipes, Steel Policy Notification in May 2017, implementation of GST with effect from July 2017 and a Court case in a writ petition filed by M/s Hunting Energy Services Private Limited in Delhi High Court.

- It was decided to convert the invoked earnest money deposit amount (₹3.67 crore) as performance bank guarantee and deduct 25 *per cent* value of each invoice as performance bank guarantee.

Ministry while reiterating the views of Management stated (June 2021) that the combined indent was placed in order to arrest the buildup of inventory and reduce inventory carrying cost. The requirement of 2014-15 and 2015-16 were met with buffer stock available with various work centers, which is a normal practice in oil and gas business. Ministry further stated that several corrective measures were taken by the Management to avoid delay in processing of tender.

Management/ Ministry's reply needs to be viewed in light of the following:

- The Company failed to comply with its policy of centralised procurement on yearly basis as it clubbed the requirement of 2015-16 with that of 2016-17, which led to delay in processing the indents. This resulted in usage of 2 to 2.5 times costlier premium casing pipes. Para 1.3 read along with para 1.4.2 of Integrated Materials Management Manual must be taken in a constructive manner. Consolidation must refer to the consolidation of all the requirements received from various Assets/ Basins during a particular year and not the consolidation of requirements of various years. ONGC should have processed the tender for procurement of casing pipes timely keeping in view the lead time of material, availability of stock, etc. However, NOA for procurement of casing pipes was placed with inordinate delays of 782 to 1,201 days from the date of indent as against time norms of 176 days given in the Materials Management Manual.

- Clause 34.10 of the Materials Management Manual of the Company provides processing time of 176 days for procurement of goods. This period covers all the normal requisite activities involved in processing of tender till issue of NOA. Hence, the activities viz., revision of technical Bid Evaluation Criteria, review of premium thread connections, clarifications to bidders etc., should have been completed in the due course of time for timely delivery of the casing pipes, especially in view of shortage of requisite materials at its various establishments.

- Requirement of premium casing pipes was for 2015-16 and indent thereof was received in August 2014. Hence, if the Management had processed the tender as per timelines of Materials Management Manual, issues as cited in the reply viz., applicability of Anti Dumping Duty, Steel Policy, GST and Court case etc., would not have impacted the procurement.

- Placing of purchase order for the requirement of any particular year should not affect the next tender cycle. However, there were persistent delays in tender processing as the purchase order for the requirement of 2014-15 was placed in April 2016 and the purchase order for the requirement of 2015-16 and 2016-17 was placed in February 2018. As such, ONGC failed to place purchase order timely for its yearly requirement of casing pipes.

- The constraints due to use of premium casing pipes in view of operational requirements viz., mobilization/ demobilization charges, rig idling, loss of production, etc., could have been avoided by finalising the tender and placing the purchase order timely for the Company's yearly requirement of casing pipes.

- Clubbing of indents to avoid inventory carrying cost attracts avoidable transportation expenses. Further, every year, Corporate Material Management brings to the notice of all units that while finalising the indent for next cycle, order placed/ material in transit of current cycle should be taken into account. Hence, the buffer stock with various work centres raises questions on the assessment of requirement done by the work centre.

Thus, had ONGC initiated and completed the tendering process after consolidation of all indents received from Assets/ Basins on yearly basis well within the time as stipulated in the Materials Management Manual, expenditure of ₹21.56 crore incurred by the Company due to use of costlier casing pipes could have been avoided.

Recommendation No. 2

ONGC may ensure adherence to its procurement policy and initiate the procurement process in time so as to avoid stock out situation of critical materials required for its exploration activities.

2.7 Avoidable expenditure due to idling of departmental rig at Mahanadi-Bengal-Andaman Basin, Kolkata and hiring of another rig at Tripura Asset

Tripura Asset of Oil and Natural Gas Corporation Limited released departmental rig to Mahanadi-Bengal-Andaman Basin, Kolkata for drilling of deep well. However, due to improper planning, the rig remained idle for 213 days on account of non-availability of ready location leading to unfruitful expenditure of ₹17.36 crore during 2019-20 and 2020-21. Further, Tripura Asset hired another rig during the same period, leading to avoidable expenditure of ₹12.33 crore[12].

During the year 2018-19, Oil and Natural Gas Corporation Limited (ONGC)'s Mahanadi-Bengal-Andaman (MBA) Basin at Kolkata carried out drilling activities by Type I departmental rig (drilling capacity in terms of depth of well upto 3,050 meters). To complete the Minimum Work Program of New Exploration Licensing Policy Block (WB-ONN-2005/4), Barrackpore#A location was released on 17 July 2018 for exploration with a target depth of 4,800 meters. As the Barrackpore#A well was a deep well and beyond the capacity of the available departmental rig, it was decided (July 2018) in the Joint Review Meeting to deploy Type-III rig (drilling capacity in terms of depth of well upto 6,100 meters) during 2019-20 in the MBA Basin and to relocate the departmental rig in other work center.

MBA Basin, Kolkata initiated (August 2018) proposal for deployment of Type-III rig (BI-2000-1) with effect from May 2019 in the budget estimate of MBA Basin for the year 2019-20. The competent authority approved (October 2018) deployment of Type-III rig from Agartala to Kolkata and the rig was released (8 May 2019) from Tripura Asset for MBA Basin, Kolkata and was commissioned on 31 January 2020. As ready location was not available at MBA Basin, Kolkata, the rig remained idle for 213 days from February 2020 (when rig was ready for drilling activities) to August 2020.

In this regard, Audit observed that:

[12] Payment made for hiring of one rig from March 2020 to August 2020 (DR#15: ₹12.33 crore)

i) During Joint Review Meeting of Drilling and Well Services held in January/ April 2019, Director (Technology & Field Services) instructed to ensure availability of released locations and readiness of drill site for rig BI-2000-1 prior to its release from Agartala. The rig was, however, released from Tripura Asset, Agartala even though it was known that no land was readily available with the Basin for drilling purpose. The rig remained idle for 213 days, thereby incurring unfruitful expenditure of ₹17.36 crore[13] on idling cost.

ii) Prior to release of rig BI-2000-1 from Tripura Asset, it was in working condition and had completed three exploratory wells and one development well in the Asset during June 2017 to May 2019. After the release of this rig, Tripura Asset hired rig DR#15 from March 2020 to August 2020 to complete the drilling work and incurred an avoidable expenditure of ₹12.33 crore.

Thus, due to improper planning, the departmental rig released by Tripura Asset to MBA Basin, Kolkata remained idle for 213 days on account of non-availability of ready location leading to unfruitful expenditure of ₹17.36 crore during 2019-20 and 2020-21. Further, Tripura Asset hired another rig during the same period, leading to avoidable expenditure of ₹12.33 crore.

ONGC stated (February 2021) that:

- For fulfilling the Minimum Work Programme commitment, location Barrackpore#A was released on 17 July 2018. The location was supposed to be drilled by a deep drilling Type-III rig, which was not available with the MBA basin. To expedite the whole process of drilling within the stipulated time-frame, it was decided to arrange for deep drilling rig and simultaneously go ahead with the process of land acquisition for the location.
- There was an inordinate delay in land acquisition and getting clearance from the State Government due to unforeseen circumstances, which were beyond the control of ONGC. This delay in land acquisition resulted in rendering the rig idle for a period of 213 days and incurred idle cost of ₹17.36 crore.

The reply is not tenable in view of the following:

- At the time of shifting of rig from Tripura Asset to MBA Basin Kolkatta, the Basin neither had any ready location nor any acquired land. Further, even after acquisition of the land, at least three to four months are required for civil work. Hence, as a prudent decision, the company should have released the rig once the Basin had at least acquired the land for drilling of wells so that the departmental rig could be utilised optimally.

- Director (Technology & Field Services) desired that location for the rig at Kolkata should be ensured prior to its release from Agartala. However, this was not adhered to and the rig BI-2000-1 was released without confirming the readiness of location for drilling.

- The company had to hire another rig (DR#15) at a cost of ₹12.33 crore for continuing its operations at Tripura Asset though its own rig was lying idle at the MBA Basin, Kolkata

[13] ***As calculated by the management based on staff cost and other expenditure incurred on idling of rig***

for want of location. The company could have used the departmental rig for drilling in Tripura Asset and then proceeded to transport the rig to MBA Basin once the location was ready.

Thus, ONGC incurred an avoidable expenditure of ₹29.69 crore[14] due to improper planning, which not only resulted in idling of departmental rig for 213 days but also led to hiring of another rig for completion of its operations.

The Audit paragraph was referred to the Ministry in February 2021; their response was awaited (July 2021).

Recommendation No. 3
ONGC should ensure maximum utilisation of its own rigs before going in for hiring in the best financial interests of the Company.

2.8 Non-creation of adequate facilities resulted in avoidable flaring of Low Pressure gas

Non-creation of adequate facilities at Mehsana Asset of Oil and Natural Gas Corporation Limited led to avoidable flaring of Low Pressure gas and consequent loss of revenue of ₹15.13 crore during the period from April 2016 to March 2020.

Mehsana Asset of Oil and Natural Gas Corporation Limited (ONGC) produces associated and free gas of 5.5 to 6 lakh standard cubic meter per day (LSCMD) from its fields which is either consumed for internal use, sold to customers or flared for want of adequate facilities. Associated gas constitutes 90 *per cent* of total gas production of the Asset and the balance 10 *per cent* is free gas. Associated gas of Low Pressure produced along with oil is compressed to increase its pressure and to facilitate free flow and the balance Low Pressure gas, which is not compressed is flared.

Audit observed that out of 8,569 LSCM of Low Pressure gas produced during the period from 2016-17 to 2019-20, the Asset supplied gas of 4,136 LSCM to various consumers and 4,074 LSCM was utilised for captive use. The total flaring of Low Pressure gas at Mehsana Asset during four years was 359 LSCM (4.2 *per cent* of the total production). The quantity of Low Pressure gas flared due to technical reasons, isolated locations, lack of facilities and other reasons were 126 LSCM, 21 LSCM, 193 LSCM and 19 LSCM respectively. The Nandasan Group Gathering Station and Linch Early Production System (EPS) alone contributed 157 LSCM out of 193 LSCM flared due to lack of facilities.

The Production & Development Directorate of ONGC intimated Directorate General of Hydrocarbons (DGH) the acceptable limit of Low Pressure gas flaring (technical limit) of 2.70 *per cent* due to process reasons for Mehsana Asset. However, the actual Low Pressure gas flaring at Mehsana Asset was 5.12 *per cent*, 4.40 *per cent*, 4.11 *per cent* and 3.18 *per cent* during the years 2016-17, 2017-18, 2018-19 and 2019-20 respectively, which

[14] *Rig idling cost of ₹17.36 crore plus ₹12.33 crore towards hiring cost of DR#15*

was higher by 2.42 *per cent*, 1.70 *per cent*, 1.41 *per cent* and 0.48 *per cent* as compared to the technical limit.

Thus, avoidable flaring of Low Pressure gas led to loss of revenue of ₹15.13 crore during the period from April 2016 to March 2020.

Management stated (February 2020) that despite continuous efforts, flaring due to lack of facilities could not be brought down to desirable level because of uncertainty in production profiles of Nandasan and Linch fields owing to the nature of the fields (small and isolated).

Ministry stated (January 2021) that Mehsana Asset was in constant touch with the Institute of Reservoir Studies on matters related to performance of fields. The sales commitment and decisions on creation of facility are based on profiles by Institute of Reservoir Studies even though the profiles for small and marginal fields consisting of multiple pools and layers are difficult to predict. Ministry further added that Mehsana Asset went ahead with gas sale tenders and creating additional compression facility based upon actual production figures to avoid flaring of gas. Further, Asset had made efforts such as shifting of Low Pressure compressors to Linch and commissioning of a micro turbine at Linch Group Gathering Station. In order to further reduce flaring due to unpredictability of profile and temporary availability of excess Low pressure gas, methodology for supply of additional gas to consumers, available due to operational reasons was approved in the 537th Executive Committee meeting. The Asset has brought down flaring to 2.71 *per cent* (technical requirement) in January 2020 and the flaring was close to 3 *per cent* in September 2020; the Asset endeavours to keep it down to the technical requirement.

The reply needs to be viewed in light of the following:

- There were only two Low Pressure compressors (with capacity of 10,000 SCMD each) installed at Linch Group Gathering Station as on 31 March 2018. As of March 2020, four Low Pressure compressors (with capacity of 10,000 SCMD each) are installed at Linch Group Gathering Station; the additional compressors were shifted from other fields (where the compressing facility was underutilised) of Mehsana in May/ October 2018. Audit further observed that there was delay in ascertaining the necessity to shift the Low Pressure compressors from North Kadi Group Gathering Station and Jotana Group Gathering Station to Linch and Nandasan, despite the compressors not being in use in these fields since 2017-18. Thus, timely action was not initiated to cut down flaring of Low Pressure gas at Linch and Nandasan fields.
- Mehsana Asset, having successfully operated 65 KVA micro turbine for over a year, have initiated proposal for procuring three micro turbines (one with capacity of 200 KVA and other two with 65 KVA each); tendering has been completed but notice of award has been put on hold because of COVID-19 pandemic situation. Thus, it is clear that additional facilities are essential to control avoidable flaring and ONGC initiated action only in 2019-20 though flaring of Low Pressure gas due to lack of facility in the fields has consistently occurred since 2016-17.

- Ministry considered the exceptional months alone during the year 2019-20. On scrutiny of 2019-20 data, Audit noticed that flaring was consistently well above 3 *per cent* of production from April to August 2019 and 4.8 *per cent* of gas was flared in March 2020. Further during the entire year 2019-20, flaring due to lack of facility at Nandasan and Linch continued to exceed the technical limit.
- Audit appreciates that methodology for supply of additional gas to consumers available due to operational reasons was approved in the 537th Executive Committee meeting and standard operating procedure for finalisation of tenders to minimise time was issued in March 2019 and there is a system now in place. However, the fact remains that timely action to shift the available Low Pressure compressors was not taken by the Asset and the creation of additional facilities is yet to be completed, because of which, the flaring *vis-a-vis* production has continued to be above the approved technical levels at Mehsana Asset.

Thus, non-creation of adequate facilities considering the existing projected production profile and positive variance in production resulted in flaring of 193 lakh standard cubic meter of Low Pressure gas amounting to ₹15.13 crore, which could have been avoided.

Recommendation No. 4

ONGC should examine flaring of Low Pressure gas at its other Assets and take remedial action to ensure that the flaring is kept within the permissible limits.

ONGC Petro additions Limited

2.9 *Avoidable payment of penal interest due to non-maintenance of debt-equity ratio stipulated by the State Bank of India*

ONGC Petro additions Limited incurred an avoidable penal interest of ₹25.81 crore due to non-maintenance of stipulated debt-equity ratio in a project financed by consortium of banks led by the State Bank of India as per the terms and conditions of the loan agreement.

The Board of Directors of ONGC Petro additions Limited (OPaL) approved (March 2012) Dahej Petrochemical Complex project at an estimated cost of ₹21,396 crore with debt-equity ratio of 70:30 prior to the scheduled commercial operation date of January 2014 and a ratio of 60:40 thereafter. OPaL signed (January 2013) Rupee Loan Agreement (RLA) with a consortium of Banks/ Financial Institutions led by the State Bank of India (SBI) for debt of ₹14,977 crore. Later in July 2014, the Board approved revision of project cost at ₹27,011 crore with debt-equity ratio of 66:34 up to December 2015 and thereafter debt-equity ratio of 58:42. The Company increased the debt portion by signing a supplemental and amendatory agreement to RLA in April 2015 with the consortium of Banks/ Financial Institutions led by SBI.

SBI while signing (April 2015) the amendatory agreement to RLA, fixed the scheduled commercial operation date as 30 June 2015 and stated that the overall project cost should be funded with debt-equity ratio of 66:34 by 31 December 2015 and, thereafter, the ratio should be brought down to 58:42. Besides, SBI put forth another condition that the entire equity requirement would be tied up on or before 31 May 2015, failing which additional interest of 1 *per cent* per annum will be charged with effect from 1 June 2015.

OPaL sought (August 2015) extension of time till December 2015 for tying up the equity requirement and for non-levy of additional interest. OPaL also stated that ONGC had infused equity of ₹1,922 crore (through share warrants) increasing total tied up equity to ₹3,943.93 crore and prospective investors were keen to invest in the project. In response, SBI permitted (7 December 2015) time till 31 December 2015 to OPaL to ensure stipulated compliance, failing which penal interest of 1 *per cent* per annum over and above the interest rate would be charged from January 2016.

OPaL failed to raise additional equity and thus, could not maintain the stipulated debt-equity ratio despite lapse of seven months permitted by SBI. Resultantly, the Bank started charging penal interest with effect from January 2016. It is pertinent to note that the Company proposed (March 2016) to raise equity of ₹7,286 crore through placement of compulsory convertible debentures only after RBI instructed SBI to declare OPaL account as NPA (Non-Performing Asset) from 31 March 2016 for non-infusion of requisite equity in the project. SBI recovered ₹25.81 crore from OPaL towards penal interest for the period from January 2016 to May 2017.

Thus, due to non-maintenance of the stipulated debt-equity ratio, OPaL incurred an avoidable penal interest of ₹25.81 crore.

OPaL acknowledged (December 2020) the levy of penal interest till the equity gap was funded through compulsory convertible debentures to comply with the stipulated debt-equity ratio. The Ministry stated (February 2021) that though ONGC/ OPaL started the process of getting equity/ quasi equity in the form of compulsory convertible debentures to secure compliance of the SBI sanction terms, the process was delayed due to complexities involved in connection with the issuance of such a financial instrument, formulation of documents, checking the legality under provisions of the Companies Act, 2013 and other compliances. The Ministry further stated that the concept of compulsory convertible debentures was new for ONGC/ OPaL requiring more deliberations.

Reply of OPaL/ Ministry is not tenable due to the fact that OPaL started the process of raising equity at the desired level through placement of compulsory convertible debentures only in February 2016, i.e., two months after the due date (December 2015) of stipulated compliance. Besides, SBI had permitted seven months' time for compliance of the terms and conditions of amendatory agreement, which was sufficient for completion of the process of compulsory convertible debentures issuance. Further, OPaL should have resorted to compulsory convertible debentures route before the extended due date of December 2015 in view of the fact that the Company was aware about the sanctioning terms and conditions of SBI. OPaL could raise the additional equity in two tranches only in July 2016 (₹5,615 crore) and in May 2017 (₹1,671 crore) i.e., after a lapse of more than a year of the due date.

Thus, OPaL delayed the tie-up of stipulated equity in the overall project cost despite seven months' extension permitted by SBI, resulting in avoidable payment of penal interest of ₹25.81 crore for the period January 2016 to May 2017, leading to increased project cost.

Recommendation No. 5
OPaL may ensure adherance to the terms and conditions stipulated in the finance/ loan agreements with Banks/ Financial Institutions in the best financial interests of the Company.

ONGC Videsh Limited

2.10 Undue benefit extended to private parties by awarding work in violation of CVC guidelines

ONGC Videsh Limited awarded the work of auditing of its oil and gas reserves valuing ₹10.60 crore to private parties on nomination basis, disregarding Central Vigilance Commission guidelines, thereby extending undue benefit to the private parties.

ONGC Videsh Limited (OVL) is having presence in 19 diverse countries across the globe with 39 Exploration & Production (E&P) assets (March 2020). OVL is getting its oil and gas reserves audited by third party auditors periodically (after every five years) or as per other company requirements. The reserve auditing is helpful for prospective financers interested in knowing the reserves of an exploration, and production company for actual representation of its true worth. It is also required for statutory compliance as well as for good corporate governance.

OVL awarded (November 2013) third party consultancy job of auditing of oil fields to two agencies viz., M/s DeGolyer & MacNaughton (D&M) for 25 fields in Russia and M/s Sproule for 52 fields in Sudan on nomination basis at the total cost of USD 7,95,000 (D&M: USD 3,00,000, Sproule: USD 4,95,000) for long term fund raising at competitive costs from global market to acquire new oil fields. The Company had selected the consultants on nomination basis considering the tight time-lines for reserve estimation.

During the year 2019-20, the work of reserve estimation for 54 selected reserves in Russia was awarded (October 2019) again to M/s D&M, on nomination basis, at a total cost of USD 7,95,000. The work was awarded on nomination basis on the ground of data sensitivity, reliability and earlier work association with the Company.

As such, OVL awarded both the works of reserve estimation on nomination basis at the total cost of USD 15,90,000 (₹10.60 crore[15]).

Audit observed that:

[15] ***USD = ₹62.31 for 19 November 2013 (date of transaction), USD = ₹71.09 for 18 October 2019 (date of transaction),***
USD 7,95,000 * ₹62.31 = ₹4.95 crore + USD 7,95,000*₹71.09 = ₹5.65 crore;
Total = ₹4.95 crore + ₹5.65 crore = ₹10.60 crore

i) As per directions (5 July 2007 and 11 July 2018)[16] of Central Vigilance Commission (CVC), the award of contracts on nomination basis was to be resorted to only under exceptional circumstances like where the supplier or contractor has exclusive rights in respect of the goods or services and no reasonable alternative or substitute exists etc. In response to a query of audit about availability of other internationally recognised reserves auditors who could carry out the job for OVL, it was informed that there are four other international reputed agencies[17] who could carry out the jobs for OVL. As such, award of both the works on nomination basis, despite availability of international consultants, was a violation of CVC guidelines.

ii) Budgetary quote of M/s D&M in 2013 was USD 6,923.01 per field whereas work was awarded @ USD 12,000 per field. The work was awarded at higher rate by USD 5,076.99 per field[18] and no justification for the same was found recorded in the records produced to audit. Similarly, rate quoted in 2019 per field (USD 17,187.5) by M/s D&M was higher by 2.48 times w.r.t. their earlier quote of November 2013 (USD 6,923.01). Analysis of the same was also not found in the record produced to audit. Finally, work was awarded @ USD 14,722.22 per field to M/s D&M.

iii) Since the process of reserve estimation is a regular phenomenon for an exploration & production company and OVL is getting its reserves audited on regular intervals, reason of tight time-lines for awarding of contracts on nomination basis is not tenable. Besides this, there is general practice in the industry to appoint third party certification job of oil and gas fields on competitive basis. For example, Indian Oil Corporation Limited had engaged international consultants for similar job on competitive basis in 2008 and Imperial Energy in Russia had engaged international consultants for similar job on competitive basis in 2010 and 2012.

iv) Both M/s D&M and M/s Sproule were private entities and factors like data sensitivity and reliability did not hold ground as rare and exceptional circumstances. Awarding of reserve estimation work to the same contractor on repeated basis for many years has hindered competitive pricing and revalidation of reserve figures given by erstwhile reserve estimation consultants.

Thus, the company awarded works of ₹10.60 crore to private parties on nomination basis disregarding the CVC guidelines which resulted in undue benefit to the private party.

Management replied (March 2021) that:

- CVC guidelines allow award on nomination in exceptional circumstances. The current case has been awarded on nomination basis considering such exceptional case.

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[16] ***Office order No. 23/07/07 dated 5 July 2007 & Circular No.06/07/18 dated 11 July 2018***

[17] ***i) Gaffney Cline & Associates (GCA), UK, ii) Robertson (UK), iii) Bayphase Ltd (UK) and iv) Schulumberger Asia Services***

[18] ***USD 12,000 – USD 6,923.01 = USD 5,076.99***

- ONGC has shifted its reserve reporting to PRMS 2018 (Petroleum Reserve Management System) and for ONGC this work was done by M/s D&M. It was incumbent upon OVL to shift to PRMS 2018 for which an in-principle approval was obtained from EC (Estimates Committee). Therefore, to maintain uniformity in approach of process of migration to PRMS 2018, D&M was considered as an appropriate choice by OVL.
- M/s D&M is an internationally recognised reserves auditor for many oil majors and the Company has to ensure only reputed companies are awarded such contract to ensure acceptable audit. D&M has worked with ONGC/ OVL for long period as the reserves audit was awarded to them and audit has general acceptability globally. Invitation of open tender can lead to data pilferage and misuse.
- The work of reserve estimation for 54 selected fields was awarded (October 2019) to M/s D&M at a total cost of USD 7,95,000 i.e., USD 14,722 per field whereas in case of M/s MECL, Colombia, three year' contract for reserves audit of seven fields at a total cost of USD 5,87,000 i.e., USD 27,952 per field per year was awarded to M/s Ryder Scott. Hence, price for current contract to M/s D&M was reasonable.

Management reply is to be viewed against the fact that CVC, to a reference by Audit and a separate reference by Ministry of Petroleum and Natural Gas, clarified (December 2020 and May 2021 respectively) that the Chief Technical Examiner's Organisation of CVC has opined that exceptional circumstances mentioned by OVL like sensitivity of data, reliability, firms associated with OVL earlier etc., during such award do not appear to be in the list of exceptional circumstance provided in the Commission's circular.

Thus, award of work in violation of CVC guidelines had resulted in undue benefit of ₹10.60 crore to the private parties.

The Audit paragraph was issued to the Ministry in June 2021; their response was awaited (July 2021).