



FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2016-2019)**

**TWENTY FIFTH REPORT
(Presented on 9th March, 2017)**

**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2017**

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

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TWENTY FIFTH REPORT

On

**Kerala State Backward Classes Development Corporation Limited
(Based on the Report of the Comptroller and
Auditor General of India for the
year ended 31 March, 2010)**

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COMMITTEE ON PUBLIC UNDERTAKINGS (2016-2019)
COMPOSITION OF THE COMMITTEE

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Legislature Secretariat:

Shri V. K. Babu Prakash, Secretary

Smt. P. K. Girija, Additional Secretary

Shri P. B. Suresh Kumar, Deputy Secretary

Smt. Deepa V., Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2016-2019) having been authorised by the Committee to present the report on its behalf, present this Twenty Fifth Report on Kerala State Backward Classes Development Corporation Limited, based on the report of the Comptroller and Auditor General of India for the year ended 31 March, 2010 relating to the Public Sector Undertakings of the State of Kerala.

The report of the Comptroller and Auditor General of India for the year ended on 31 March, 2010 was laid on the Table of the House on 28-6-2011. The consideration of the audit paragraphs included in this report and the examination of the departmental witness in connection thereto were made by the Committee on Public Undertakings constituted for the years 2014-2016.

This Report was considered and approved by the Committee (2016-2019) at its meeting held on 2-3-2017.

The Committee places on record its appreciation for the assistance rendered by the Accountant General (Audit) Kerala, in the examination of the audit paragraphs included in this report.

The Committee wishes to express thanks to the officials of the Backward Communities Development Department of the Government Secretariat and Kerala State Backward Classes Development Corporation Limited for placing the materials and information solicited in connection with the examination of the subject. The Committee also wishes to thank in particular the Secretaries to Government-Backward Communities Development and Finance Departments and the officials of Kerala State Backward Classes Development Corporation Limited who appeared for evidence and assisted the Committee by placing their views before it.

Thiruvananthapuram,
9th March, 2017.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

REPORT ON KERALA STATE BACKWARD CLASSES DEVELOPMENT CORPORATION LIMITED

AUDIT PARAGRAPH 4.6 (2009-2010)

Avoidable committed liability

The Company was formed (1995) with the main objective to promote comprehensive development of backward classes and minority communities in the State by rendering financial assistance in the form of low cost loans to set up self-employment ventures and to undertake other welfare activities. The Company was registered as a non Banking Financial Company (NBFC) in May 2003 and as per provisions of Section 65(105) (zm) of Finance Act 1994, any service provided or to be provided to any person by a NBFC in relation to banking and other financial service is a 'taxable service'. Section 65(12) (ix) of the Act *ibid* further provides that banking and other financial service shall include lending. Therefore, taxable portion in a lending transaction would be the documentation charges, processing fees and servicing charges collected from loanees. Failure or delay in remittance of service tax would attract penal interest at the rate of 13 *per cent* per annum. The tax on banking and other financial services was introduced with effect from 16-7-2001.

The Company has been lending money to its beneficiaries after collecting processing fee at the rate of 0.50 *per cent* since October 2000 up to 31st March, 2006 and 0.75 *per cent* thereafter on loan disbursed except for micro²⁹ credit. During 2004-2009, the Company has disbursed a total loan of ₹ 386.08 crore to the beneficiaries and collected processing fee of ₹ 2.69 crore. The applicable service tax payable on the processing fee thus collected worked out to ₹ 31.63 lakh.

We noticed (October 2009) that although the Company was liable to pay service tax on processing fees collected from loanees, the Company neither registered itself as a Service Tax Assessee with Central Excise Department nor

29 Processing fee at the rate of 0.25 per cent of loan amount subject to a maximum of ₹ 1,000 was collected against micro credit.

collected and paid service tax amounting to ₹ 31.63 lakh³⁰ till August 2010. Thus, failure of the Company to register itself as a Service Tax Assessee and consequent non-collection/non-remittance of Service Tax on processing fee collected from loanees resulted in avoidable committed liability for payment of Service Tax(₹ 31.63 lakh)³¹ and interest (₹ 7.85 lakh) amounting to ₹ 39.48 lakh. (*Annexure 27*).

The Company received (January 2010) a demand notice from Central Excise Department for payment of service tax of ₹ 30.75 lakh (tentative) on processing fee collected during 2004-2005 to 2008-2009.

The Government replied (May 2010) that Government of India (GOI) had been approached for exemption of the Company from payment of service tax and the response from GOI is awaited (October 2010).

[The Audit Paragraph 4.6 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2010.]

The Notes furnished by government on the Audit Paragraph are given in Appendix II.

1. The Committee sought explanation regarding the reasons for the failure to register the Company as service tax assessee and the loss incurred due to the belated remittance of service tax. The Managing Director replied that, Kerala State Backward Classes Development Corporation Limited was established in 1995 and Company was registered as a Non Banking Financial Company (NBFC) in 2003. Since the company had already been exempted from Income Tax, it was of the assumption that it was exempted from Service Tax also when Service Tax came into force in 2001. The Committee pointed out that if the Company had registered itself as a Service Tax Assessee in time and remitted the Service Tax of ₹ 31.63 lakh, an amount of ₹ 7.85 lakh towards penal interest could have been saved by the Company. The Committee vehemently stated that such lapses should not be repeated in future.

30 Worked out for the period April 2004 to March 2009.

31 Calculated @ 13 per cent for the period 2004-05 to 2008-09.

Conclusions / Recommendations

2. The Committee observes the Company's failure to register itself as a Service Tax Assessee and to remit the Service Tax in time, as an instance of sheer negligence and irresponsibility. The Committee warns that, since these lapses bear no excuses, the occurrence of the same in future should be viewed very seriously.

Thiruvananthapuram,
9th March, 2017.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

APPENDIX I

SUMMARY OF MAIN CONCLUSION/RECOMMENDATIONS

Sl. No.	Para No.	Department Concerned	Conclusions/Recommendations
(1)	(2)	(3)	(4)
		SC/ST Development Department	The Committee observes the Company's failure to register itself as a Service Tax Assessee and to remit the Service Tax in time, as an instance of sheer negligence and irresponsibility. The Committee warns that, since these lapses bear no excuses, the occurrence of the same in future should be viewed very seriously.

APPENDIX II

NOTES FURNISHED BY GOVERNMENT ON THE AUDIT PARAGRAPHS

Sl. No.	Audit Paragraph	Reply Furnished by Government
1	2	3
1	4.6	<p>Registered as a Service Tax Assessee on 2-11-2010 in compliance of the C&AG comments. The entire Service Tax due from 2005-2006 to 2008-2009 has been remitted on 17-12-2010. Corporation is remitting the Service Tax on every month thereafter promptly.</p> <p>With regard to the avoidable committed liability and Service Tax amounting to ₹ 0.39 crores mentioned in the C&AG comments. It is reported that as substantial portion of this amount imposed under punitive provisions have been dropped in the Order C.NO.IV/16/39/2010 ST-Adjn and IV/16/62/2010 ST-Adjn dated 10-5-2011 by the Commissioner of Central Excise and Customs after hearing the Corporation. The said Order dropped all the penalties imposed under Section 76, 77 and 78 of Finance Act, 1994 leaving the liability limited to Section 75, the interest portions for the delayed payment of Service Tax.</p>

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