

CHAPTER - VI

GOVERNMENT COMMERCIAL AND TRADING ACTIVITIES

6.1 Overview of Government companies

Introduction

6.1.1 As on 31 March 2005, there were six Government companies (five working companies and one non working company¹) and nine departmentally managed Government commercial and Quasi-commercial undertakings with no change in position from that as on 31 March 2004 under the control of the State Government. The accounts of the Government companies (as defined in Section 617 of the Companies Act, 1956) are audited by Statutory Auditors who are appointed by the Comptroller and Auditor General of India (CAG) as per provisions of Section 619(2) of the Companies Act, 1956. These accounts are also subject to supplementary audit conducted by the CAG as per provisions of Section 619 of the Companies Act, 1956. The accounts of departmentally managed Government commercial and quasi-commercial undertakings are audited solely by the CAG under Section 13 of CAG's (Duties, Powers and Conditions of Service) Act, 1971.

Working Public Sector Undertakings (PSUs)

Investment in working PSUs

6.1.2 As on 31 March 2005, the total investment in five working PSUs (all Government companies) was Rs.58.34² crore (equity:Rs.20.75 crore, share application money:Rs1.70 crore and long term loans³: Rs.35.89 crore) as against five working PSUs (all Government companies) with a total investment of Rs.54.01.⁴ crore (equity Rs.20.60 crore, share application money Rs.1.25 crore and long term loans: Rs.32.16 crore) as on 31 March 2004. Increase in total investment was due to increase in loans in Industries and Commerce sector. The analysis of investment on working PSUs is given in the following paragraphs:

¹ Non-working companies are those that are in the process of liquidation/closure/merger, etc.

² State Government investment was Rs.29.55 lakh crore (others: Rs.28.79 crore). Figure as per finance account 2004-05 is Rs.40.58 crore, the difference is under reconciliation

³ Long-term loans mentioned in paras 6.1.2 and 6.1.3 are excluding interest accrued and due on such loans.

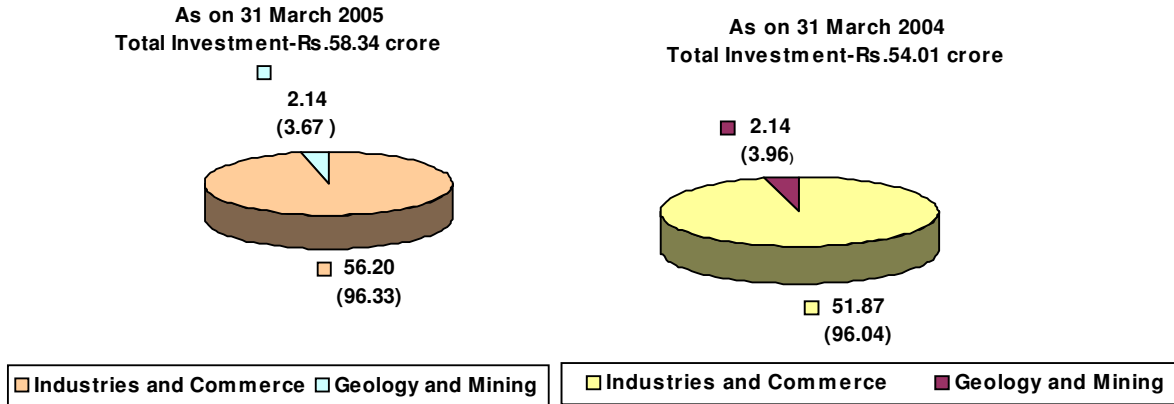
⁴ Previous years figure was Rs.61.90 crore. The difference is due to recasting of the figures based on the information provided by two companies (Nagaland Industrial Development Corporation Ltd., Dimapur, Nagaland Handloom and Handicrafts Development Corporation Ltd., Dimapur).

Sector-wise investment in working Government companies

6.1.3 The investment (equity and long term loans) in various sectors and percentage thereof at the end of 31 March 2005 and 31 March 2004 are indicated in the pie charts as below:

Sector-wise investment in working Government companies

(Figures in bracket indicate percentage of investment)



Working Government Companies

6.1.4 The total investment in working Government companies at the end of March 2004 and 2005 was as follows:

Table 6.1

(Rupees in crore)

Year	Number of working Government companies	Investment in working Government companies			
		Equity	Share application money	Loan	Total
2003-04	5	20.60	1.25	32.16	54.01
2004-05	5	20.75	1.70	35.89	58.34

Investment in the current year has increased over the previous year due to increase in equity and loans mainly in the Industries and Commerce sectors

As on 31 March 2005, the total investment in working Government companies comprised 38.48 per cent of equity capital and 61.52 per cent of loans as compared to 40.46 per cent and 59.54 per cent respectively as on 31 March 2004.

The summarised statement of Government investment in working Government companies in the form of equity and loans is detailed in **Appendix XXXII**.

Budgetary outgo, grants/subsidies, guarantees and waiver of dues and conversion of loans into equity

6.1.5 The details of budgetary outgo, grants/subsidies, guarantees issued, waiver of dues and conversion of loans into equity by the State Government in respect of working Government companies are given in *Appendices-XXXII* and *XXXIV*.

The budgetary outgo in the form of equity capital and loans and grants/subsidies from the State Government to working Government companies for the three years upto 2004-05 are as follows:

Table -6.2

	(Rupees in crore)					
	2002-2003		2003-2004		2004-05	
	Number of companies	Amount	Number of companies	Amount	Number of companies	Amount
Equity capital outgo from budget	3	1.87	---	---	2	0.60
Loans given from budget	---	---	---	---		
Grants/Subsidy towards						
(i) Projects/Programmes/Schemes	---	---	---	---		
(ii) Other subsidy	---	---	---			
(iii) Total subsidy	4	7.32	4	5.76	4	6.22
Total outgo	4*	9.19	4*	5.76	4*	6.82

No guarantees for loans were given by the State Government during the year 2004-05.

Finalisation of accounts by working Government companies

6.1.6 The accounts of the companies for every financial year are required to be finalised within six months from the end of the relevant financial year under Sections 166, 210, 230, 619 and 619 B of the Companies Act, 1956 read with Section 19 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. They are also to be laid before the Legislature within nine months from the end of the financial year.

However, as can be seen from *Appendix-XXXIII*, none of the five working Government companies had finalised their accounts for the year 2004-05 within the stipulated period. During the period from October 2004 to September 2005, one Government Company finalised one accounts for previous years.

The accounts of all the companies were in arrears for periods ranging from nine to 24 years as on 30 September 2005, as detailed below:

* These are the actual number of companies which have received budgetary support in the form of equity, loans, grants and subsidy from the Government from the respective year.

Table -6.3

Sl. No.	Name of Government companies	Year from which accounts are in arrears	Number of years for which accounts are in arrears	Reference to serial number of Appendix-XXXIV
1.	Nagaland Industrial Development Corporation Ltd., Dimapur	1996-97 to 2004-05	9	A1
2.	Nagaland Industrial Raw Materials & Supply Corporation Ltd., Dimapur	1981-82 to 2004-05	24	A2
3.	Nagaland Handloom & Handicrafts Development Corporation Ltd., Dimapur	1983-84 to 2004-05	22	A3
4.	Nagaland Hotel Ltd	1988-89 to 2004-05	17	A4
5	Nagaland State Mineral Development Corporation Ltd., Kohima	1993-94 to 2004-05	12	A5

It is the responsibility of administrative departments to oversee and ensure that the accounts are finalised and adopted by the PSUs within the prescribed period. Though the administrative departments concerned and officials of the Government were apprised quarterly by the Audit regarding arrears in finalisation of accounts, no effective measures have been taken by the Government, and as a result, the net worth of these companies could not be assessed in audit.

Financial position and working results of working PSUs

6.1.7 The summarised financial results of working PSUs as per their latest finalised accounts are given in **Appendix -XXXIII**.

According to the latest finalised accounts of five Government companies, three companies had incurred an aggregate loss of Rs.2.06 crore.

Loss incurring companies

6.1.8 Of the three loss incurring companies one company had accumulated loss of Rs.0.49 crore which exceeded its paid up capital of Rs.0.10 crore.

Despite poor performance, the State Government continued to provide financial support to this* company in the form of equity, loan and subsidy. According to available information, the total financial support so provided by the State Government by way of subsidy during 2004-05 to this company amounted to Rs.0.32 crore.

Return on capital employed

6.1.9 As per the latest finalised accounts, the capital employed** worked out to Rs.19.13 crore in three companies and total return[§] thereon amounted to

* Sl. No A 3 of Appendix-XXXII (Nagaland Industrial Raw materials and Supply Corporation Limited).

** Capital Employed represents net fixed assets (including capital work in progress) plus working capital except in finance Companies where it represents a mean of aggregate of opening and closing balances of paid up capital, free reserves, bonds deposit and borrowings (including re-finance).

§ For calculating total return on capital employed interest on borrowed funds is added to net profit/subtracted from the loss as disclosed in the profit and loss account.

Rs.(-) 2.12 crore. The details of capital employed and total return on capital employed in case of working Government companies are given in *Appendix-XXXIII*.

Non working Public Sector Undertakings (PSUs)

Investment in non-working PSU

6.1.10 As on 31 March 1996[∞] the total investment in one non-working PSU (Government company) was Rs.4.96 crore (equity: Rs.4.96 crore). The company was closed down on 30 September 2001.

Budgetary outgo, grant/subsidy, guarantees, waiver of dues and conversion of loans into equity

6.1.11 The details regarding budgetary outgo, grants/subsidies, guarantees issued, waiver of dues and conversion of loans into equity by the State Government in respect of the non-working Government company were not furnished by the company.

Total establishment expenditure on non-working PSU

6.1.12 The year-wise details of total establishment expenditure of non-working Government company and the source of financing them during last three years upto 1995-96 were not furnished by the company.

Finalisation of accounts by non-working PSU

6.1.13 The accounts of one non-working company were in arrears for a period of 27 years as on 31 March 2005.

Financial position and working results of non-working PSU

6.1.14 The summarised financial results of non-working Government company as per their latest information are given in *Appendix-XXXIII*.

Results of audit by Comptroller and Auditor General of India

Persistent irregularities and system deficiencies in financial matters of PSUs

6.1.15 The following persistent irregularities and system deficiencies in financial matters of companies had been repeatedly pointed out during the course of the annual audit of their accounts but no corrective action has been taken by these companies so far:

- The accounts are not finalised in time.
- Most of the companies did not hold Board of Directors' Meetings regularly as required under Section 285 of the Companies Act, 1956,

[∞] The company (Nagaland Sugar Mills company Ltd., Dimapur) did not furnish any information from 1996-97 onwards.

major decisions are often taken without approval of the Board of Directors.

Internal Audit/Internal Control

6.1.16 The Statutory Auditors (Chartered Accountants) are required to furnish a detailed report upon various aspects including the internal audit/internal control system in the companies audited by them in accordance with the directions issued by the CAG to them under section 619(3) (a) of the Companies Act, 1956 and to identify areas which need improvement.

The Statutory Auditors observed deficiencies in respect of internal audit system in case of five companies during the period upto 1992-93[#]. The major recommendations made/comments made by Statutory Auditors were of the following nature:

- No internal control and internal audit system exist in PSUs.
- Maintenance of cost records are not satisfactory wherever necessary.

Response to Inspection Reports

6.1.17 Audit observation noticed during audit and not settled on the spot are communicated to the Heads of PSUs and Department concerned of the State Government through inspection reports. The Heads of PSUs are required to furnish replies to the inspection reports through respective Heads of Departments within a period of six weeks. Inspection reports issued upto September 2005 pertaining to six PSUs disclosed that 298 paragraphs relating to 32 inspection reports remained outstanding at the end of October 2005. Of these, five inspection reports containing 75 paragraphs had not been replied to for more than five years. Department wise break up of inspection reports and paras outstanding as on 30 November 2005, is given below:

Table 6.4

Sl. No.	Name of the Department	Number of PSUs	Number of outstanding Inspection Reports	Number of outstanding paragraphs	Year from which paragraphs outstanding
1	Industries and Commerce	5	25	230	1988-89
2	Geology and Mining	1	7	68	1987-88
	Total	6	32	298	

Similarly, draft paragraphs and reviews on the working of PSUs are forwarded to the Finance Commissioner and the Principal Secretary/Secretary of the administrative department concerned demi-officially seeking confirmation of facts and figures and their comments thereon within a period of six weeks. It was, however, observed that two draft paragraphs forwarded to the Industries and Commerce department in July 2004, had not been replied to by the Government so far (September 2005).

[#] Accounts were not submitted from 1993-94 onwards.

It is recommended that the Government should ensure that (a) procedure exists for action against the officials who fail to send replies to inspection reports/draft paragraphs and Action Taken Notes for recommendations of COPU as per the prescribed time schedule, (b) action is taken to recover loss/outstanding advances/overpayment in a time bound schedule and (c) the system of responding to audit observations is revamped.

Position of discussion of Commercial chapters of Audit Report by the Committee on Public Undertakings (COPU)

6.1.18 The reviews/paragraphs of Commercial chapters of Audit Reports pending discussion as on 31 March 2004 by the Committee on Public Undertakings are as follows:

Table - 6.4

Period of Audit Report	Number of Reviews and Paragraphs			
	Appeared in Audit Report		Pending for discussion	
	Reviews	Paragraphs	Reviews	Paragraphs
1994-95	---	1 [*]	---	---
1995-96	1	2 [#]	1	---
1996-97	1 [#]	Nil	---	---
1997-98	1 [#]	1 [#]	---	---
1998-99	1 ^{##}	1 ^{##}	---	---
1999-2000	---	1 ^f	---	---
2000-2001	---	1 ^{ff}	---	---
2001-2002	1	3 ^o	1	---
2002-2003	1	1	1	1
2003-2004	1	1	1	1

Departmentally managed Government commercial/quasi-commercial undertakings

Proforma accounts of departmentally managed commercial/quasi commercial undertakings

6.1.19 As on 31 March 2005, there were nine departmentally managed Government commercial and quasi-commercial undertakings.

Mention was made in paragraph 7.1.18 of the Report of the Comptroller and Auditor General of India for the year 2003-04 about delay in preparation of proforma accounts of these undertakings. Despite this, accounts were in arrears for periods ranging from three to 34 years as on 30 September 2005 as detailed below:

^{*} Discussed in September 2000 but recommendation of COPU is awaited.

[#] Discussed in June 2001 but recommendation of COPU is awaited.

^{##} Discussed in February 2002 but recommendation of COPU is awaited.

^f Introductory para only

^{ff} Introductory para only

^o Draft paragraphs except reviews discussed in October 2004 but recommendation of COPU is awaited.

Table 6 5

Sl. No.	Name of the Department/Undertaking	Extent of arrears
1.	Organisation of the Director of Food and Civil Supplies Department	1971-72 to 2004-05
2.	Nagaland State Transport Department	1988-89 to 2004-05
3.	Nagaland Power Department	2002-03 to 2004-05
4.	Farms under Agriculture Department	
	(i) Potato Seed Farm, Kuthur	1999-2000 to 2004-05
	(ii) Medium size Seed farm, Merapani	2000-01 to 2004-05
	(iii) Seed Farm, Tizit	2000-01 to 2004-05
5.	Changki Valley Fruit Preservation Factory	1987-88 to 2004-05
6.	Timber Treatment and Seasoning Plant, Dimapur	1998-99 to 2004-05
7.	Government Cottage Industries Emporia, Kohima	1979-80 to 2004-05
8.	Farms under Veterinary and Animal Husbandry Department	
	(i) Cattle Breeding Farm, Medziphema	1998-99 to 2004-05
	(ii) Cattle Breeding farm, Tuensang	1998-99 to 2004-05
	(iii) Cattle Breeding Farm, Aliba	1998-99 to 2004-05
	(iv) State Cattle Breeding Farm, Lerie	1993-94 to 2004-05
	(v) Chick Rearing Centre (with Hatchery Unit), Mokokchung	1998-99 to 2004-05
	(vi) Chick Rearing Centre (with Hatchery Unit), Dimapur	1998-99 to 2004-05
	(vii) Chick Rearing Centre, Tuensang	1985-86 to 2004-05
	(viii) Chick Rearing Centre, Medziphema	1985-86 to 2004-05
	(ix) Pig Breeding Centre, Medziphema	1997-98 to 2004-05
	(x) Pig Breeding Centre, Tizit	1997-98 to 2004-05
	(xi) Pig Breeding Centre, Tuensang	1985-86 to 2004-05
	(xii) Pig Breeding Centre, Mokokchung	1985-86 to 2004-05
	(xiii) Pig Breeding Centre, Tuli (Mokokchung)	1980-81 to 2004-05
	(xiv) Regional Rabbit Breeding Farm, Jharnapani	1998-99 to 2004-05
	(xv) Pig Breeding Centre, Merangkong	1998-99 to 2004-05
	(xvi) Chick Rearing Centre, Kohima	1998-99 to 2004-05
	(xvii) Pig Breeding Centre, Sathuja	1998-99 to 2004-05
	(xviii) Cattle Breeding farm, Baghty	1998-99 to 2004-05
	(xix) Sheep Farm, Poilwa	1998-99 to 2004-05
	(xx) Buffalo Farm, Jalukie	1998-99 to 2004-05
	(xxi) Regional Broiler Centre, Kohima	1998-99 to 2004-05
9.	Farm under Horticulture Department	
	Fruit Canning Factory, Longnak	1993-94 to 2004-05

The finalised accounts of departmentally managed commercial and quasi-commercial undertakings reflect their overall financial health and efficiency in conducting their business. In the absence of timely finalisation of accounts, Government's investment remains outside the scrutiny of the Audit/State Legislature. Consequently corrective measures, if any, required cannot be taken in time. Besides, the delay also opens the system to risk of fraud and leakage of public money.

619 B Companies

6.1.20 There was no company under Section 619B of the Companies Act 1956.

AUDIT PARAGRAPHS

INDUSTRIES AND COMMERCE DEPARTMENT

6.2 Unproductive expenditure

Expenditure of Rs.9.56 crore was incurred on construction of a mechanised brick plant which, though commissioned 10 years after its completion, failed to achieve the target of production resulting in loss of potential revenue of Rs.1.38 crore.

An agreement was executed (October 1987) between the Govt. of Nagaland and a Kolkata based firm (Sanjay Traders) for construction of a Mechanised Brick Plant with an annual installed capacity of 3.50 crore Bricks (one lakh bricks per day) on turn-key basis at a total cost of Rs.9.91 crore. The work was to be completed within four years from the date of execution of the agreement. The Department was to arrange supply of power line on the site for construction purpose as well as for running the plant and to take over the project for commercial production after a successful trial run of 16 months from the date of completion of work. In the event of failure/default in completion of the plant by the contractor, penalty at the rate 0.25 *per cent* per week subject to a maximum of 10 *per cent* of the value of the contract was leviable.

Audit scrutiny (April 2005) revealed that, the contractor was paid an amount of Rs.8.52 crore upto December 1992. The contractor claimed to have completed the work in 1993 but the General Manager of the Nagaland Mechanised Bricks Company Ltd (NMBC) reported (July 1993) poor workmanship indicating possibility of complete failure in achieving the projected target. But without giving cognizance to the report, the Department paid further amount of Rs.1.04 crore to the contractor between February 1994 and November 1996, leaving a balance of only Rs.35 lakh (Rs.9.91 crore – Rs.9.56 crore).

Further, scrutiny revealed that after a trial run in May 1996, various defects in installation were detected and the State Government after a review (April 2002) in consultation with the Management of NMBC decided to reduce the projected installed capacity of the plant from one lakh bricks per day to 35,000 bricks per day.

Idling of the plant for about seven years (1993-1998) before being put to final trial-run was considered to be one of the main reasons for its malfunctioning and consequent delay in commissioning. The delay in completion of work as well as commencement of trial-run was attributed to the failure of the department to provide power supply in time to the work site.

It was however, seen that the Power Department to whom Rs.21.62 lakh was paid (August 2003) by the Industries Department for providing power line to the plant site, actually executed the work in 1995. As a result, idling of the project beyond 1995 till its commissioning (August 2004) can be attributed to

defective installation and improper handling by the plant management. The department however, did not invoke the penalty clause on the contractor for failure/default in installation of the plant.

Records further revealed that the plant was ultimately commissioned for commercial production with effect from August 2004 and produced only 6,77,938 red bricks up to March 2005 since its commissioning (August 2004) against a revised installed capacity of the production of 83,30,000 bricks during the period. The low production was attributed to non-operation of drier chamber and physical limitations of kiln structures.

Thus, the expenditure of Rs.9.56 crore incurred on the construction of the Mechanised Brick Plant remained unproductive for a decade due to lack of adequate timely action by the Department. Even on commissioning (August 2004) the plant failed to achieve the reduced target and consequently suffered a loss of potential revenue of Rs.1.38 crore till March 2005*.

The Department in their reply (September 2005) accepted the facts and stated that the delay in commercial production was due to power supply problems and insufficient clay collection in the absence of the excavator. The reply is not tenable as these factors should have been given due consideration when the project was conceived. Moreover the department did not take any initiative for solving the problems as and when they arose.

The matter was reported to Government in June 2005; reply had not been received (November 2005).

6.3 Avoidable financial liability

The Nagaland Handloom and Handicraft Development Corporation Ltd., failed to clear its statutory dues resulted in an avoidable financial liability of Rs.17.77 lakh.

The Employees Provident Fund and Miscellaneous Provisions Act (1952), requires employers to deposit both the employer's and employee's contributions to the Fund with the Regional Provident Fund Commissioner (RPFC) within 15 days from the date of closure of the month to which the contributions relate, failing which the employer would be liable to pay penal damage and interest under Sections 14(B) and 7(Q) of the Act.

Test check (May 2005) of records of the Nagaland Handloom and Handicraft Development Corporation Ltd. (NHHDC) disclosed that the Corporation had defaulted in depositing the employer's share of the statutory dues from June 1982 to February 2001. In accordance with the powers conferred under the Act, the RPFC issued three demand notices (September 2001, March 2002 and May 2004) to the NHHDC to pay penal interest (i) Rs.7.93 lakh for the

* August 2004 to March .2005 = 238 days.
35,000 per day x 238 days = 83,30,000
83,30,000 – 6,77,938 = 76,52,062 x Rs.1.80 per brick = Rs.1,37,73,711
(say Rs.1.38 crore)

period from October 1994 to February 2000 (ii) Rs.1.45 lakh for the period from March 2000 to June 2002 and penal damages, (iii) Rs.6.37 lakh for the period from June 1982 to February 2001 for defaulting in payment of the statutory dues with further liability for payment of penal interest at the rate 12 *per cent* till the date of its liquidation.

As of April 2005, the NHHDC had paid Rs.11.95 lakh⁵ against the total penal damages and interest of Rs.15.75 lakh⁶ imposed by the RPFC leaving an unpaid balance of Rs.3.80 lakh. The statutory dues of Rs.5.60 lakh and penal damage of Rs.3.80 lakh were yet to be deposited with the RPFC including interest liability of Rs.2.02 lakh⁷ (calculated upto March 2005).

Thus, due to defaulting on its statutory dues amounting to Rs.5.60 lakh and also for belated payments, the NHHDC has incurred an avoidable financial liability of Rs.15.75 lakh and Rs.2.02 lakh by way of penal damage and interest. The amount is likely to increase further if the Corporation does not discharge its obligations as assessed by the RPFC.

The Management in reply while admitting the facts stated (November 2005) that the Corporation being a loss incurring institute had to depend on grants-in-aid provided by the State Government. Due to delayed release of grants-in-aid, the statutory EPF dues could not be paid in time resulting in avoidable liability of payment of penal damage and interest.

The matter was reported to Government in June 2005; reply had not been received (November 2005).

⁵ Rs.2.40 lakh in February 2002; Rs.,5.53 lakh in March 2002; Rs.1.45 lakh in July 2003; Rs.2.57 lakh in January 2005.

⁶ Rs. 15.75 lakh = Rs.(7.93 + 1.45 + 6.37) lakh

⁷ @ 12 *per cent* on Rs.5.60 lakh (unpaid statutory dues) from August 2001 to March 2005