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CONTENTS

PAGE

Editorial

Articles

Auditor's Note Book : (i) Efficient Management of Public Expenditure, (ii) Supreme Audit Institutions and Government Policies

DHARAM VIR

Social Audit – Road Map for Effective Public Accountability

MIHIR SHAH

A New Direct Tax Code from 2012

K.P. SASIDHARAN

Cost Reduction Strategies

A.K. SINGHAL

EPC Contracts – Audit Perspectives from Andhra Pradesh

K.V.S.S. SITARAMARAO

Document

The Delhi (Right of Citizen to Time Bound Delivery of Services) Act, 2011

INVITATION FOR ARTICLES

The Indian Journal of Public Audit and Accountability welcomes original articles of professional interest. The articles should broadly cover aspects relating to Public Accountability, Financial Management, Accounts, Audit, Public Administration with focus on Good Governance.

Ideally the article should be between 3000 and 3500 words and should not normally exceed 5000 words. Short articles on topical interest are also welcome which can be included in Commentary Section of the Journal. They should preferably be between 1000 and 2000 words.

Two printed copies of the articles should be submitted along with a soft copy in a word processing format. Articles can also be sent by e-mail followed by hard copy by post.

Articles in Hindi are also welcome, which will be published in original. They should preferably be in simple spoken Hindustani language format. An abstract of the article in about 100 words should also be sent.

EDITORIAL

This issue opens with the “Auditor’s Note Book” which is now a regular and most unique feature of our Journal where the author DharamVir gives a critical assessment of significant contemporary developments in the field of Public Finance, Auditing and Accounting. This time he deals with the major recommendations of the report of the High Level Expert Committee (HLEC) on Efficient Management of Public Expenditure headed by Dr. C. Rangarajan linking some of these with the views on them contained in some papers published in this journal on those very subjects (Classification of Grants-in-aid given for the purpose of creation of assets by the grantee body and distinction between plan and non-plan expenditure). The second issue DharamVir has analysed in his column relates to CAG’s role vis-à-vis Government policies in the face of the recent controversy on the subject arising out of his report on ‘2G Scam’.

We reproduce a very thought provoking address by Dr. Mihir Shah, Member Planning Commission in a workshop on “Social Audit – Road Map for effective Public Accountability” organized by the Institute of Public Auditors of India in July 2011. His ideas for out of box thinking to bridge the gap between audit professional and the civil society members and his comments on how both can learn from each other are indeed challenging and interesting for Government auditors and other stakeholders.

Although, Income Tax Law has undergone numerous changes to keep pace with the changing requirements of a liberalized, emerging economic power but a holistic overhaul of the Income Tax Act has so far been elusive. After several

attempts by experts groups for a comprehensive review of the Act, it is at last slated for a big overhaul by the new Direct Tax Code now before Parliament Standing Committee. K.P. Sasidharan gives an overview of the new Direct Tax Code, explaining its various provisions in his article “New Direct Tax Code from 2012”. He views quality tax administration to ensure effective implementation equally important besides a modern tax code to determine the desired long term impact of the proposed new tax regime. The Government has over more than a decade now pursued systematic improvements and innovative use of technology and psychology in its running battle with tax evaders. The author expresses the hope that the DTC will further reduce incentives and opportunities for tax evasion.

A.K. Singhal presents, in a capsule form, along with a case study, an overview of ways and means of reducing costs with particular emphasis on manufacturing enterprises. Amongst other myth-breaking statements included here is the statement that outsourcing does not necessarily cut costs, when there are huge fixed costs and that durable cost reduction is to be built from design stage itself.

In one of the earlier issues of this Journal, we had carried an article by M.P. Gupta on the concept and practice of the Engineering, Procurement and Construction (EPC) contracts. The complexity and lack of a prior information that compels the Executives to go for such contracts also throws up challenges of due diligence in the drafting of the contract and its implementation. K.V.S.S. Sitaramarao highlights major audit findings in the audit of EPC contracts in Andhra Pradesh in his article “EPC Contracts – Audit Perspectives from Andhra Pradesh”.

In the Document section, we have brought out “The Delhi (Right of Citizen to Time Bound Delivery of Services) Act, 2011”. This is one of the first such initiatives in the country which responds to the demands for accountability and transparency in Public service.

Editor-in-Chief

AUDITOR'S NOTEBOOK

DharamVir*

(1) Efficient Management of Public Expenditure; (2) Supreme Audit Institutions and Government Policies

1. Efficient Management of Public Expenditure

It is a matter of gratification that some of the concerns on management of public expenditure that have been highlighted in this Journal from time to time have found resonance in the Report of the High Level Expert Committee (HLEC) on Efficient Management of Public Expenditure¹ headed by Dr. C Rangarajan, Chairman of Prime Minister's Economic Advisory Council. The HLEC has also made well-thought out recommendations in this regard.

(a) Implementation of Central schemes and mechanism for transfer of funds

My article "Implementation of Central Schemes: Need for Reform in the Architecture of Public Financial Management and Accountability"² had referred to some of the challenges posed by the paradigm shift involving disintermediation of the State

*ShriDharamVir is a former Deputy Comptroller & Auditor General of India.

¹ The Report is available on the website of the Planning Commission: www.planningcommission.gov.in

² Indian Journal of Public Audit and accountability Vol. III January –June 2009

Governments in transmission of Central Government funds and assignment of increasing role to extra-Government agencies in programme delivery. This had led to the overstatement of expenditure in Government accounts and indeterminateness of actual expenditure with large amounts remaining unspent with the implementing agencies; diluted the Parliament's financial oversight on financial marksmanship; rendered the outcome and performance budgets as mere approximations; accentuated the issue of correct classification of expenditure between revenue and expenditure with the under-statement of expenditure of a capital nature because of classification of such expenditure as revenue expenditure when incurred through extra-departmental agencies; rendered the State budgets less transparent; and resulted in accountability deficit because of the difficulties in Central oversight and the outreach of CAG's Audit which is defined by law and precludes detailed audit of extra-departmental agencies unless the prescribed conditionalities are satisfied. The article had suggested *inter alia* that the Central releases to the extra-departmental agencies should be classified under a suspense head within the functional head in the Consolidated Fund that could be relieved on only after assurance of actual expenditure for the intended purpose and that the CAG's mandate should unambiguously establish his authority 'to follow the rupee' and audit the expenditure irrespective of the agency employed for spending.

The HLEC has echoed some of these concerns and also pointed out that the unspent balances with the implementing agencies constitute the float outside with substantial carrying cost, a problem that gets aggravated because of the general concern of the

Central Government Ministries for mere avoidance of lapse of budget provisions 'which acts as an incentive for them to spend (release moneys) not connected with utilization' by the implementing agencies. Since there may remain unspent balances even when Central funds are routed through the State Governments, the HLEC has recommended that a suitable accounting methodology should be worked out to distinguish between "final expenditure" and "transfers". The HLEC has also pointed out the limitations of CAG's audit which is currently not comprehensive over all sub-grantees i.e. down the line implementing agencies which receive funds from the first level implementing agencies at the State level.

In a recommendation that goes straight after the jugular, the HLEC has recommended the phasing out and eventual discontinuation of the practice of direct transfers of Central funds to the implementing agencies which should be routed only through the State Governments. In order to establish the jurisdiction of CAG's audit over the sub-grantees to whom funds may be released by the first grantee, the HLEC has also recommended that

- (i) The GFR may prescribe that it shall be the duty of the grantee to make available the relevant books of accounts and the records for CAG's audit including the related books of accounts and the records of sub-grantee, if any, to whom a part or whole of the Government assistance may be transferred by the original grantee; and the grantee shall incorporate a suitable back-to-back condition to this effect in the order of release of any amount that may be so transferred to the sub-grantee; and include a suitable

condition to this effect in the Government sanction on the above lines; and

- (ii) The CAG should have free and complete access to accounts, accounting documents and other related documents of the State/Central autonomous bodies, societies, NGOs, PRIs and Urban Local Bodies.

Incidentally, similar suggestions have been on the table since 2008. The question of CAG's audit jurisdiction over the sub-grantees was also highlighted in the inaugural address of the Comptroller and Auditor General of India at the XX Conference of Accountants General, 1999 who had pointed out that the increasing tendency of assigning public money through the intermediaries had resulted in a situation where there is very little to see in the records of the authority charged with intermediation and absence of audit in the recipient and actual user.

(b) Plan non Plan distinction

Another seminal recommendation of the HLEC relates to the abolition of distinction between Plan and non-Plan expenditure, an issue which had been comprehensively discussed in this Journal in Dr. S C Pandey's article 'Plan and Non Plan distinction in Accounts and Budget'³. While pointing out that Plan and non-Plan distinction had led to a skewed emphasis on new schemes with consequent neglect of maintenance expenditure, Pandey had argued that the issue was in the ultimate analysis connected with fairness and efficiency of budget allocation process. Formally, the budget allocation function is vested with the Ministry of Finance

³ Indian Journal of Public Audit and Accountability Vol. IV Jan-June 2010

but because of the Plan and non-Plan distinction, the allocation of a sizeable portion of the budgetary resources is done by/through the Planning Commission. The issue of removing such distinction is not merely a matter concerning the design and presentation of budget and the form of accounts but one involving redefinition of the role of the Planning Commission and the Finance Ministry's budget allocation process. Thus it is an important issue of institutional re-engineering that concerned all stake-holders in public finance management.

According to the HLEC the policy regarding what qualifies as Plan expenditure and what should qualify as non-Plan expenditure has lost clarity because of complex nature of Government; the Plan non Plan distinction has created a bias in favour of Plan expenditure and neglect of essential maintenance expenditure; and the correspondence between Plan and developmental expenditure has been diminished over time because of several factors including classification of Plan schemes at the end of the Plan period as non-Plan schemes. The Plan non Plan distinction has contributed to a fragmented view of resource allocation and is not able to provide a satisfactory classification of developmental and non-developmental dimensions of Government expenditure or an appropriate budgetary framework. It has become dysfunctional and should be abolished and the roles and responsibilities of the Planning Commission and the Ministry of Finance should be redefined.

At the Central Government level, the Planning Commission may be responsible for guiding the overall development priorities of Government, setting of outcome targets and review of performance

of the Ministries. The Ministry of Finance may be responsible for guiding the fiscal policy, preparation of budget estimates and financial decisions. The Ministries' budgets should be placed in a three -year framework with the budget year ceilings communicated to them well in advance after due consultation with the Planning Commission for the preparation of their annual budgets and the Ministry of Finance should be made the final authority for the approval of the budgets. Within the hard budget constraints indicated to them by the Ministry of Finance on a three year rolling basis, the line Ministries should be given greater flexibility for moving resources to better programmes and uses and to achieve more optimal mix of inputs so that better outputs and outcomes are achieved. The line Ministries should be required to provide information on the costing of services vis a vis benchmarks and targets to the Ministry of Finance/Planning Commission and over a period of time several performance parameters may be developed and mile stones prescribed for each Ministry.

(c) Adjusted Revenue Deficit and Effective Revenue Deficit

The HLEC has expressed itself in favour of continuing the revenue-capital classification. Capital expenditure should relate to the creation of assets and be determined by the ownership criterion. While all transfers should be treated as revenue expenditure the HLEC has also considered the need and merits for classifying expenditure by end use for the limited purpose of FRBM compliance since 'given the strong federal structure with increasing policy thrust on social sector spending, the importance of transfer payments is only likely to increase in coming years'. The HLEC has accordingly suggested the introduction of an additional fiscal parameter in the FRBM Act namely the Adjusted

Revenue Deficit. Adjusted Revenue Deficit is the amount of revenue deficit reduced by the amount of grants to other jurisdictions for creation of tangible assets.

This is akin to the fiscal parameter Effective Revenue Deficit, calculated as the amount of revenue deficit reduced by the amount of grants to other jurisdictions for creation of capital assets, which featured for the first time in the Union Budget 2011-2012 and which was discussed in the Auditor's Notebook in this Journal in the January-June 2011 issue⁴. It was pointed out that while the Effective Revenue Deficit might make the current numbers look comfortable the actual position may well remain indeterminate for several reasons: very little information is available in the budget documents regarding the assets to be created; the possibility of reappropriations of budget provision for other purposes not involving creation of capital assets cannot be ruled out; there is no assurance for the end use of transfers for creation of capital assets for the intended purpose by the transferee jurisdictions; and the amount of actual expenditure against such transfers remains uncertain. Also, the categorization of transfers as grants for creation of assets did not appear to have been informed by the rigour that is ordinarily associated with the classification of expenditure between capital and revenue as laid down in the Government Rules.

In order to avoid the moral hazard of creative budgeting because of the last point the HLEC has stressed the need for careful definition

⁴DharamVir: Auditor's Notebook Indian Journal of Public Audit and Accountability January –June 2011.

of the grants for creation of tangible assets broadly on the lines of the definition of capital grants as prescribed by the IMF in its Government Financial Statistics Manual 2001. In terms of the said definition capital grants are stated to involve the acquisition of assets by the recipient and may consist of a transfer of cash that the recipient is expected or required to use to acquire an asset or assets (other than inventories), the transfer of an asset (other than inventories and cash), the cancellation of a liability between the creditor and debtor, or the assumption of another unit's debts. The HLEC has recommended setting up of an expert group tasked to formulate the precise definition and criteria for classification of expenditure as "Government revenue expenditure for creation of tangible assets" which should then be rigidly complied with to prevent misclassification. The recipient of the capital grants must be required to maintain assets register which should be made available in the public domain. At the same time the Central Government's Central Plan Monitoring System which continues to be work in progress should be fast tracked and made sufficiently comprehensive so as to serve as an authentic, credible and effective instrument of assurance of utilization of Central transfers for the intended purposes.

While these recommendations do address some of the concerns expressed earlier in the context of Effective Revenue Deficit, these do not ring-fence the budget provision for Government revenue expenditure for creation of tangible assets for meeting other revenue expenditure. Accordingly, any transfer of budget provision for grants for creation of tangible assets to other revenue heads by the Union Government should be brought to the notice of the Public Accounts Committee with detailed explanatory notes. This

will not merely be consistent with the supremacy of the legislature in financial matters but also promote better fiscal discipline. A similar requirement is already prescribed for certain categories of deviations of actual expenditure from the budget provisions.

Further, since the funds for such transfers come from the Union budget, it would be more appropriate if, additionally, such assets are also explicitly stated in the budget documents of the Union Government. Also, the presentation of a statement of assets created by such grants with opening balance, additions and reductions during the year, and closing balance at the end of the year accompanied by suitable explanatory notes should be made one of the mandatory disclosures under the FRBM Rules for the Union Government. This will be in the interest of transparency and ensure better compliance of the HLEC recommendation.

Unless these and other related issues are satisfactorily addressed, Adjusted Revenue Deficit might prove to be a mere feel good parameter.

Besides its radical recommendations, the HLEC Report contains a brilliant and lucid exposition of the Government's expenditure management system that makes it a must-read for serious students and practitioners of public finance. It will be interesting to watch further developments particularly in view of the proposed re-engineering of the systems of public financial management recommended by it.

2. Supreme Audit Institutions and Government Policies: Some Stray Thoughts

Questions have been raised in recent months regarding the jurisdiction of Supreme Audit Institutions (SAIs) vis a vis Government policies. Generally, SAIs have chosen to keep away from Government policies. According to the Auditing Standards issued by the International Organization of Supreme Audit Institutions (INTOSAI), the SAIs may take up audit of Government policies if authorized to do so by their respective mandates. This does not provide much assistance or guidance.

The crux of the matter is: what constitutes Government policy and should therefore remain beyond audit scrutiny unless specifically prescribed in the SAI's mandate. At the apex level, the basic framework of the country's policies may be said to be enshrined in the charter of its governance; its Constitution, which is sacrosanct and which the SAIs must not merely respect but are frequently mandated to uphold, as for example in India where the Comptroller and Auditor General is sworn to uphold the Constitution (and the laws) by virtue of the oath of his office as prescribed in the Constitution before he assumes charge. This is indeed the bedrock of one of the cardinal principles of compliance audit.

The next level policy may be said to reside in the ruling party's political manifesto with reference to which the electorate voted it to power and which represents the mandate of the people. This too would seem to set the limits for audit.

The third level of policy rests on the country's Five Year Plan which is the country's strategic vision of its development goals for

the following five years and carries the endorsement of the National Development Council. The next level might be found in the Annual Budgets which broadly speaking translate the people's mandate and the Five Year Plan into actionable programmes, projects, schemes etc. In between there are the macro policy documents like the National Water Policy, the National Telecommunication Policy or the National Education Policy. All these are prima facie 'no go' areas for auditors, subject to what is stated hereinafter.

The real grey area is encountered as one reaches the operationalization of broad policy frameworks necessitating a distinction between programme policies *per se* and administrative policies that impact and determine the raising of revenue and incurring of expenditure which constitutes the auditor's staple. The question ultimately boils down to the limits of audit in regard to administrative policies of Government.

It is indeed fortuitous that the expression 'Audit' has not been defined anywhere in the Constitution of India or in the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 (DPC Act)⁵. This has left the scope of audit open-ended thereby enabling the CAG's Audit to respond to changes in the pattern of Government activities and expenditure, keep pace with the developments in the profession of audit and match the rising

⁵ According to the Regulations on Audit and Accounts 2007 notified by the Comptroller and Auditor General of India under the DPC Act, audit means the examination of accounts, transactions and records in performance of duties and exercise of powers of the CAG as prescribed in the Constitution and the DPC Act *and includes performance audit or audit of any type determined by the CAG*

expectations of stakeholders for public accountability. The last viz; public accountability has a wide, perhaps even infinite, meaning since it places on the persons/authorities entrusted with public powers and resources to report on the management of such resources and be answerable for the fiscal, managerial and programme responsibilities conferred and adds to the challenges in defining the boundaries of Audit vis a vis policy matters.

The difficulties in defining the limits of audit in regard to policy matters are best discussed in the context of the three standard streams of audit viz; Financial Audit, Compliance Audit and Performance Audit. *Prima facie* Financial Audit appears to have little difficulty in locating the boundaries of audit vis a vis Government policies in view of the over-arching role of the CAG in accounting matters since (i) under the Constitution the form of accounts, which also includes the basis for selecting the appropriate heads under which transactions are required to be classified, is prescribed on the advice of the CAG and since (ii) prior consultation with the CAG is mandatory while framing Government Accounting Rules as laid down in the DPC Act. Nevertheless Government policies can have significant impact on the accuracy, completeness and transparency of accounts. For example, as observed in paragraph 1 (a) above, Government policy of disintermediation of the State Governments in transmission of Central Government funds and assignment of increasing role to extra-Government agencies in programme delivery has led to the overstatement of expenditure in Government accounts as well as vitiated the revenue-capital distinction. In such cases any observation in Financial Audit clearly washes on the shores of Government policies.

The difficulty level is raised in Compliance Audit. Although Compliance Audit primarily examines the Government transactions for their conformity with the provisions of the Constitution and the applicable laws and the rules, regulations, orders and instructions issued by the competent authority, the rules, regulations etc. which flow from the Government policies are themselves subject to check for their legality, adequacy, transparency, propriety, prudence and effectiveness. Also embedded in Compliance Audit is the examination of expenditure for compliance with the broad and general principles of financial propriety to guard against cases of unnecessary, excessive, extravagant or wasteful expenditure of public moneys and resources. This takes Compliance Audit close to the red lines of Government policies with the auditor's judgment being juxtaposed against the executive judgment and policy. Compliance Audit is liable to inch even closer to the examination of policies in the case of audit of procurements: purchase transactions are likely to attract audit observations if the procurement policies are opaque and audit ventures behind the individual transactions to identification of systemic problems.

Compliance Audit also comes closer to Government policies in the audit of receipts where the DPC Act explicitly mandates the CAG to satisfy himself that the rules and procedures are designed and are being observed to secure an effective check on the assessment, collection and allocation of revenue. For example, the extent of surveys for identification of potential assessees might appear to be the domain of the executive policies but it can significantly impact the assessment of revenue and can be a legitimate aspect of audit

inquiry. Also, while Government policies must necessarily shape the tax laws, the laws may attract audit scrutiny if these suffer from ambiguity or apparent loopholes with potential for tax evasion. In fact in several cases tax laws have been rewritten in consequence of audit observations.

The difficulty level in defining the boundaries of audit is increased manifold in Performance Audit. Performance Audit, which is an independent assessment of the extent to which an organization, programme or scheme operates economically, efficiently and effectiveness i.e. the examination against three Es: Economy, Efficiency and Effectiveness. Economy consists in the minimization of input costs, efficiency in maximization of output with the given inputs while effectiveness is the extent to which the intended objectives are achieved.

Very often the question whether CAG's remit extends to policy matters gets mixed up with the issue of the authority of the CAG to undertake performance audit. Although Performance Audits have been conducted and the results included in the Audit Reports since the 1960s, the CAG's authority to conduct such audits has been questioned from time to time with reference to the provisions of the DPC Act. However, the authority resides in the DPC Act itself.

According to Section 13 of the DPC Act,⁶ which prescribes the 'General Provisions relating to audit' it shall be the duty of the CAG to audit all expenditure from the Consolidated Fund and to ascertain (i) whether the moneys shown in the accounts as having been disbursed were legally available for and applicable to 'the service or purpose' to which they have been applied and (ii) whether the expenditure 'conforms to the authority that governs it'. A careful interpretation of both these clauses provides the authority for Performance Audit. The ultimate authority for expenditure is provided by the Parliament which votes funds for specific purposes and objectives while the purposes and objectives are recorded not merely in the Demands for Grants but also in the Ministries' Outcome Budgets that are made available soon after the presentation of the budget. The Outcome Budgets spell out the outputs and outcomes that are promised to the Parliament against the budgetary outlays for which the Parliament has been approached. Performance Audit is an instrument of assessment whether the promised outputs and outcomes have been achieved i.e. whether the moneys shown in the accounts as having been disbursed have been applied to the 'service or purpose' as promised. In this view of the matter, the authority for Performance Audit is very much prescribed in the DPC Act.

Incidentally, Performance Audit as an integral part of CAG's remit received judicial recognition in the judgment of the High Court of

⁶ An identical provision existed in the Government of India (Audit and Accounts) Order, 1936; under Article 149 of the Constitution this provided the authority for audit prior to the DPC Act

Delhi in National Dairy Development Board vs .the Comptroller and Auditor General of India⁷.

Nevertheless it is necessary to recognize that in the examination of the three Es, Audit may come dangerously close to questioning Government policies.

For example, in the audit of the erstwhile Integrated Rural Development Programme audit had observed in the eighties that the per capita amount of assistance by way of Government subsidy and bank loan was too low to raise the beneficiary above the poverty line given the known incremental capital output ratio. It could be argued that the available amount of outlay was deliberately thinly spread out as a matter of Government policy of assisting the maximum number of beneficiaries (the phrase 'inclusive growth' is a later day coinage) and audit had strayed into areas which were outside its remit, but the eventual effect of the policy was the frustration of the avowed objective of the programme itself. Incidentally, more than fifteen years later the Public Accounts Committee also expressed concern at the inadequacy of per capita assistance which in the words of the PAC rendered the programme as "an expenditure-oriented programme"⁸.

⁷DharamVir: Auditor's Notebook Indian Journal of Public Audit and Accountability January –June 2010.

⁸ Public Accounts Committee 1994-95 Tenth Lok Sabha Ninety-fifth Report

Another instance of Government policy resulting in inadequate value for money was in the context of audit of disinvestment of Government share-holding in selected public sector enterprises. Performance Audit had *inter alia* commented on the Government policy of sale of equity in the form of bundles containing a mix of shares of very good, good and average enterprises. During evidence before the Public Accounts Committee the Finance Secretary admitted that “in retrospect our assessment is that the best method of selling the shares to get the highest possible price is really to sell them individually”.⁹

More recently, CAG’s Performance Audit Report on Hydrocarbon Production Sharing Contracts Ministry of Petroleum and Natural Gas¹⁰ has *inter alia* commented on the bid evaluation criteria as well as the profit sharing formula and made certain recommendations for future contracts. Government has agreed to consider these recommendations.

There could be similar other instances as well. However, in all these cases Audit did not question the basic policy *per se* (Integrated Rural Development Disinvestment, etc.) but only the implementation policy. It needs to be mentioned that the CAG’s Performance Audit Report on Implementation of the National Rural Development Act specifically “noted that the Act is a unique laudable Act of Parliament which confers a right on the rural households to demand up to 100 days of employment as a matter of statutory right”.

⁹ Public Accounts Committee 1994-95 Tenth Lok Sabha Seventy -fifth Report

¹⁰ Report No. 19 of 2011-12

But a policy that offends against the provisions of the Constitution or the laws will clearly attract audit comment. Also, there might be inadequate appreciation of the long term effects of Government policy, say on environment or inter-generation equity. The question is whether audit would be transgressing its remit if Performance Audit contains comments that point to environment degradation and hence the flaws in Government policy.

There are several other issues. Government policies are not made in a vacuum but based on hard facts and data. A Government policy may suffer from manufacturing defects if it is constructed without due diligence or based on assumptions, data, facts etc. which are inadequate, incorrect, incomplete, or flawed as could be seen at that point of time. A policy may also warrant change with the passage of time because of change in the underlying assumptions or facts. In both these cases Audit comment on policy needs to be viewed with a positive and constructive approach. The Auditor will, however, be faced with real dilemma in case of a policy undertaken in full awareness of its inadequate value for money but nevertheless pursued by Government for what it considers in its wisdom to be the larger public interest. Also, the dividing lines between programme policies, administrative policies and their implementation may not always be capable of clear and precise demarcation.

The issues are indeed complex and in the ultimate analysis need to be left to the wisdom of the auditors who are intuitively and instinctively guided by the following observation of Shri S Ranganathan (CAG: 1966-72) in his evidence before the

Parliament's Joint Committee in connection with the framing of DPC Act: "There is a great corrective force; what the CAG does mention in his report gets debated and discussed in great detail before the PAC. Therefore the CAG cannot function with any sense of lack of responsibility".

Incidentally, even in countries like the United Kingdom where the relevant law specifically ousts the jurisdiction of the auditor from examination of policies, the auditors may not always find it possible to avoid close encounters with policy when undertaking performance audit.

SOCIAL AUDIT – ROAD MAP FOR EFFECTIVE PUBLIC ACCOUNTABILITY

Mihir Shah*

Honorable ShriVinodRaiji& Friends,

I would share some thoughts about the context in which we need to place our discussions in this workshop and attempt a certain perspective, which could form the basis of deliberations. Since 1990's, India has embarked on an unprecedented growth trajectory. It has now been ranked as one of the fastest growing economies in the World. Recent issue of the Economist says that we are faster than China today. If you use a certain kind of an accounting system, India has become a toast of the world, celebrated for its impressive growth story.

Those of us who have spent time in the remote hinterlands of this country, have a slightly different story to tell. The story is one of exclusion. Exclusion from these dramatic successes that have been recorded on the barometer of growth rates. A story of farmer suicides, a story of children's malnutrition, a story of the highest proportion of

* Address by Dr. Mihir Shah, Member, Planning Commission, Government of India, in the inaugural session of the workshop organized by IPAI on 26-27 July 2011 at India International Centre, New Delhi.

pregnant anemic women in the World, distinctions that India can do well without. In one sense, the 2004 election was the power of Indian democracy at work. Indian electorate defeating the “India shining” slogan that was proposed in that election. Government that took power has since then taken certain steps to respect the electoral verdict that was given in 2004 by the people of this country. Major increases in allocation for programmes of social development are a result.

In the Eleventh Five Year Plan, Rupees six lakh and ninety nine thousand crore has been spent on fifteen major flagship programmes of the Government of India. To give you a quick picture of the top ten : MGNREGA Rs.1,56,000 crore , SarvaShikshaAbhiyan around Rs.80,000 crore , the National Rural Health Mission Rs.70,000 crore , the PMGSY Rs.65,000 crore, JNNURN Rs.50,000 crore, the Accelerated Irrigation Benefit Programme Rs.45,000 crore and the Indira AwasYojana , drinking water programme, ICDS and the mid-day meal, each one of them around Rs.40,000 crore. We are spending about a total of Rs.6,26,000crore on these fifteen flagship programmes put together.

In addition to the increase in expenditure that was initiated since UPA-I took power, a new architecture for the implementation of many of these programmes has also been put in place. More rights based understanding of the problem is evident. We have the Right to

Information Act, NREGA, Forest Rights Act, the Right to Education Act & the upcoming Food Security Act.

An attempt is being made to ensure that the benefits of these growth rates actually reach out to the people of our country. Our Honorable Prime Minister is constantly reminding us about the large gap that has emerged between these very impressive outlays and actual outcomes at the ground. Performance of our programmes seems to fall far short of promise, in terms of the outcome of the outlays and what we promise in terms of the legal entitlements. It becomes imperative for us today to understand that we need to bridge this emerging and increasing gap between outlays and outcomes. I believe that the workshop on SOCIAL AUDIT - ROADMAP FOR EFFECTIVE PUBLIC ACCOUNTABILITY has extreme topical importance, as social audit is one of the instruments by which we can attempt to bridge this yawning gap between the outlays and outcomes. Now that the money is in place and to some extent the architecture of implementation is in place, yet all desired outcomes are not visible on the ground. We need to investigate closely why this has happened.

I would give an illustration with reference to NREGA, the largest of these flagship programmes. We can see practices that are quite different from the original visualised architecture of implementation. The programme continues to be implemented in the traditional top-

down manner. It is dominated by a certain bureaucratic approach, that does not respect the essential demand-driven character of this programme. One of the major instruments to ensure that this is implemented correctly is the mechanism of social audit. Important issues to be considered are:

- How can social audit of MGNREGA be strengthened?
- How it can be extended to the other programmes, where social audit has made a very rude elementary beginning?

I believe the central element that must characterize reform of social audit is effective citizen participation. We need a very different vision for partnerships between civil society and the state. I think for that there has to be a change on both sides, on the side of civil society and on the side of the Government.

As far as a state is concerned, social auditors and activists are already on the ground. They are trying to actually implement legal provisions which are already there, which the government is supposedly committed to. These people face threats of physical violence and even elimination. Such incidents are repeatedly happening over the last few years. That itself is a testimony on one hand of the real power of social audit. Vested interests are now beginning to feel the pinch and they are resorting to extreme actions. There has to be a commitment on the side of the state to facilitate the process of social audit and create an adequate space for it. Government also has to provide adequate

protection to those who are giving their lives in the process of implementing what is essentially, government programmes, government money, government provisions that characterise many of these programmes. I can say on behalf of the Planning Commission that any such recommendation that may emerge from this workshop, for example, would be taken very seriously. If it became an issue of resourcing it in any way, we are deeply committed to carrying this process forward that would facilitate an improvement in the outcomes. I believe that the process of social audit would improve outcomes.

There is need for powerful cooperation on both sides. The role of civil society goes beyond that of simply being a watch dog or being a critic from the outside. Civil societies have to actually take responsibility in partnering with the governments, to improve the implementation of development schemes. Civil societies should be partnering the Panchayati Raj Institutions, who are a centre piece of the democratic India going ahead. There may be problems in the transition period. There may be situations where the local vested interests who have been manning the electoral process for decades get their own henchman so to speak to become leaders in the Panchayati Raj system. This is happening in the North India in particular, where society is moving slower than the march of the constitution.

But on the other hand, there are also great successes where civil society in particular comes forth to empower the people's representatives. Civil society gives them the necessary support in this transition period, not acting as alternative implementation agencies but acting as partners to support those in charge of implementing these humungous programmes such as NREGA. Very good results have been obtained on the ground. I believe the most remarkable example of the kind of partnership that we need to foster between civil society & governments is visible in the state of Andhra Pradesh. Where credit must be given to both the government of Andhra Pradesh and to the MazdoorKisan Shakti Sangathan for taking a very bold step forward and in actually agreeing to formulise an arrangement for working together with the Government. We have present today the Director of the Society for Social Audit and Transparency in Andhra Pradesh. We all wait to listen to her for her experience as working part of government. I serve also on the governing body of the society. I believe that this is an experiment which we must all take very seriously. It forms a practical replicable example of when the government decides to give space to civil society and civil society adopts its most constructive approach possible by actually working within the government, certain very dramatic and remarkable results become possible. I think this is a broad architecture within which variations are possible. States could experiment in different ways. I think we need to take this kind of partnership forward and strengthen it in every possible way.

Even in the case of Andhra Pradesh, I believe there are certain steps we still need to take. I think the first step is what this workshop is all about: need to converge the process of formal audit, the financial audit, the CAG audit and the process of social audit. I think without doing that both social audit and financial audit will suffer. This is what I really want to talk about today. We need to explore how, we need to strengthen both processes by getting a much greater convergence happening between the two.

I think the auditors must recognise that they have to get out of the police inspector mode. When they go to the field, they must look upon themselves both as students of what they do not know adequately. What society can teach them. What can the experience of being there out in the field teach them. It is not only about the corruption that we have to worry; we should worry about the outcomes. For example, for what was the NREGA's money meant for? Finally, it is meant to create greater water security in the most drought prone areas. It has to improve the development in tribal areas of this country, which have been neglected and not found a place in the development map of India so far. How is that to be facilitated? What is that it takes to actually do that kind of work? Once the people of those areas become much stronger stake-holders and see tangible outcomes emerging out of a programme like MGNREGA, they become the greatest custodians of social audit. They get the greatest incentive to be owners of that process created by Government for their benefit.

Financial auditors need to understand the social processes and technical processes of construction better. I am a great admirer of the CAG's reports. I have learnt in the planning commission that it is really the performance on the ground which is something we need to really introspect about. Thousands of crore have been deployed and official statistics show that in the last fifteen years the net irrigated area by canals has actually stagnated in this country. Why it has happened? As a CAG's report has informed us, it is because the command area development has been completely neglected. The farmers, for whom the water was meant have never become partners in this process. Irrigation Department continues to be manned by civil engineers not even irrigation engineers. There is no notion of social mobiliser in the lexicon of government. I am trying hard to get the water resources department responsive to the needs of the farmers, but you know we have a certain hierarchy. The forest department is in a kind of battle with the tribal people in this country, almost beyond the pale of Indian democracy, as some people describe it. Irrigation Department seems to come a close second where their association with the people for whom this work is meant seems really distance from ground realities. I believe that the CAG report formed a tremendous basis for us to make strong recommendations on how the irrigation sector is to be reformed. We are now working very hard on a reform programme for the irrigation sector, which we will roll out in the twelfth five year plan. Even when we get reports like this, it is important that we do interface much better with the people on the ground. Who are better to enable

that, than the people who are on the ground conducting social audits? I think there is a tremendous process of mutual learning, if the financial auditor becomes both a student and a facilitator.

I will give you an example of how auditors can become facilitators. For the last twenty years, I have worked in the remote hinterlands of tribal central India. One of the activities that I was engaged in was formation of self-serving groups of women. Transparency and public accountability was something we were committed to each of these groups. Accounts would be audited by external accountants. When these Chartered Accountants would come to the field to audit these accounts, they would first understand the work that happens. They would also become facilitators of those young men and women, tribal women and men who are managing the accounts of these groups to make them understand (a) the requirements of an audit process, and (b) how compliance with financial systems has to be ensured. Over the years, quality of these accounts of successive years showed a remarkable improvement, because those managing the systems actually learnt the systems better.

Sometimes we focus very deeply on corruption issues and we say this Gram Panchayat has so much corruption, etc. This may be true in large parts of the country. But there are also instances where a lot of things happen because of lack of understanding of systems. The people who have now been devolved with this responsibility do not have adequate

understanding of systems. I think there is a tremendous role of empowerment for the people, who have the knowledge of the financial systems, in their interface with the people who are managing these programmes on the ground. A major role can be played by an auditor as a teacher. As teachers, auditor must not go with the arrogance unfortunately associated with the teaching profession. They must recognize a dictum that the best teacher is one who is a student all his life.

They must go with an attitude of learning what they do not know from those who have managed the systems on the ground. There is a tremendous learning that all of you, who are present in this room today, could gain by interacting with those who have spent their lifetimes working on the ground. Mutual learning that must take place has to be fostered. I would say the central responsibility lies with the government. I think you are the best people to make this proposition in the planning commission : we would give the strongest support to this kind of proposition.

The second element is the quality of the work on the ground. Programme like NREGA has been on the ground, for quite long: it is necessary to review the quality of assets created by it. We hear about the ASER report on quality of education imparted by SarvaShikshaAbhiyan. In these initiatives where thousands of crore

being spent, we have not paid sufficient attention to the quality of the outcomes on the ground.

It requires a very different evaluation process that cannot be confined only to the financial aspects. It cannot also be confined to narrow social aspects of inclusion and exclusion. This is another element of technical knowledge. I have spent the last twenty years actually sharing with the people who know what should a development process be. Who understand a lot of the dynamics of water on the ground, but may lack a certain element of knowledge of three R's : reading , writing and arithmetic. We have specific courses, where we empower all these youths in learning about how technical estimates are arrived at; which essentially means a learn to use multiplication, subtraction, division and addition to make calculations. The great black box of the schedule of rates which governs all the NREGA Payments is not made according to time wages, it is made according to the volume of work that you do. Volume of work and the corresponding rate for money that you get, is specified in the schedule of rates. It is very important for our people on the ground to understand the mysticism that lies around the schedule of rates. In a sense, kind of supremacy of knowledge which is vested in our junior engineers who work on the ground. We need to create whole armies of barefoot engineers , of people who could easily understand and de-mystify this knowledge. We need to bring that out and empower the people of this country with this information. With this knowledge, they would be much better auditors than any of us can presume to be. I

think if we want to audit the quality of outcomes, we need great work on the ground which would support what a financial or a social audit may attempt to do. I think we get a very different vision, therefore, of how social audit and financial audit can come together. People on both sides agree to learn from each other because both need each other.

I always repeat that we should not romanticise people's knowledge on the ground. Activists tend to do that. On the other hand, we must not mystify the knowledge that auditors have or so called technical personal have about the engineering aspects of any of these programmes on the ground. I think a major demystification drive is required on both sides which would enable this dialogue to actually take place. Without that the dialogue would almost be impossible because we will not understand the language spoken by the other. Once this kind of vision is there involving the Panchayati Raj Institutions, we can build a cadre for the future leaderships of the institutions, that are still in their infancy. I believe that we can move a long way forward in achieving the goals of inclusion, that have been committed by the government. Huge financial outlays have been put in place; these will only get translated into enduring outcomes for the people whom it really meant, if this kind of partnership is fostered. Whatever you may require me to do in the planning commission, I am committing that we will go ahead in partnership with you to take this process forward.

A NEW DIRECT TAX CODE FROM 2012

K. P.Sasidharan*

The Income Tax Act, 1961 (IT Act) imposes tax on income of individuals and corporations under the different heads, viz. 'income from salaries', 'income from house property', 'income from business and profession', 'income in the form of capital gains' and 'income from other sources'. The Act is perceived as 'lawyers/accountants' delight being far too complex and full of ambiguous sections, with varied piecemeal amendments carried out over the years. The Act has also been perceived as economically inefficient, incompatible and also inequitable for all tax payers. Although it has undergone numerous changes to keep pace with the changing requirements of a liberalized, emerging world economic power but a holistic overhaul has so far been elusive.

Realizing that the basic approach of amendments through annual Finance Acts does not allow for comprehensive structural changes in the Act, attempts have been made from time to time for its review and various Working Groups / Task Forces have made

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suggestions in this area. The latest such exercise resulted in a draft code being put in public domain for discussion titled “ Direct Tax Code (DTC)”, which is the subject matter of this paper.

The draft code is intended to replace the IT Act while also consolidating the laws on relating to taxation of both income and wealth under a single statute. The draft code covers Income Tax, Wealth Tax, Tax Deducted at Source, Dividend Distribution Tax, and Fringe Benefit Tax with an objective of simplification of the language and complexity of tax laws. On the basis of representations, certain amendments were incorporated in the DTC and Direct Taxes Code Bill, 2010 was approved by the Cabinet and introduced in Parliament in August, 2010. After consideration of the recommendations of the Parliamentary Standing Committee on finance, the Bill is likely to be passed in the Winter Session of the Parliament and expected to be effected from the financial year commencing April, 2012.

The objectives of direct tax reform include enhancing the tax revenue by widening and deepening the tax net, bringing equity and efficiency of the tax administration, elimination of the plethora of tax exemptions, subsidies and varied distortions as well as keeping moderate tax rates, ensuring better taxpayer service, tax collection and compliance by effectively deploying the information technology. Collection from Direct taxes has increased from 2.97 percent to GDP in the financial year 1999-2000 to 6.45 percent to GDP in the financial year 2009-2010.

Structural changes

The DTC integrates the Income Tax Act, 1961 and the Wealth Tax Act, 1957 into a single legislation. The language of the tax code is direct, active speech, expressing only a single point through one subsection, re-arranging various provisions into a rational structure, incorporating tax rates in Schedules to the Code instead of proposing through annual Finance Acts, as is being done so far.

The concept of assessment year and previous year is abolished and only 'Financial Year' terminology is used to avert confusing interpretations. Only status of 'Non-Resident' and 'Resident of India' exist and 'resident but not ordinarily resident' goes away. Tax incentives are rationalized, and profit linked tax incentives replaced by investment linked incentives. The new draft legislation permits loss allowed to be carried forward indefinitely as against the existing cap of 8 years. Provisions regarding General Anti-Avoidance Rule (GAAR) are geared to curb aggressive tax avoidance in a moderate tax regime. It revamps provisions relating to international taxation.

Instead of the existing practice of mentioning tax rates in the Finance Act and TDS rates and provisions spreading over the Schedules and 43 sections of the Finance Act, in the DTC, all tax rates are consolidated into 4 Schedules in a tabular format with TDS provisions in 8 clauses and 2 of the Schedules.

Instead of spreading over exemption provisions under the present Act (Section 10), these provisions are contained in two Schedules of the DTC. The Sixth Schedule lists the income which is exempt and the Seventh Schedule lists the persons whose income is exempt. The DTC requires Rental Income to be computed on actual and not on notional basis.

In case of international taxation, DTC aligns the concept of residence (of a company) with India's tax treaties by introduction of concept of "place of effective management" instead of "wholly controlled" in India and bases Advance Pricing Agreements for International Transactions for bringing certainty in transfer pricing issues. It brings an anti-deferral mechanism to assist in taxation of passive profits accumulated in companies incorporated in low tax jurisdictions which are controlled by resident shareholders and introduces Branch Profit Tax on foreign companies in lieu of higher rate of taxation.

Non Profit Organizations

The DTC seeks to tax surplus of non-profit organizations set up for charitable purposes at the rate of 15 percent, after allowing:

- (i) all receipts of the month of March of the financial year to be carried forward to be spent by end of next March

- (ii) a deduction of 15 percent of the surplus or 10 percent of the gross receipts, whichever is higher and
- (iii) a basic exemption limit of Rs. 1 lakh

The DTC may compel the corporates to rethink their existing structures and mode of conducting business. It proposes to tax transfer of shares of a foreign company, on the basis that there is a transfer of a capital asset situated in India, if the Fair Value of the assets situated in India constitutes at least 50 percent of the assets directly or indirectly held by the foreign company. Further, an overseas company with a place of effective management in India will now be treated as a tax resident in India and would be consequently liable to tax in India on its global income. Introduction of Controlled Foreign Company (CFC) rules would result in taxing income of certain overseas subsidiaries in the hands of their Indian owners, even before such income is distributed.

Another key provision deals with the contribution of tax holidays to units in SEZs. The Bill provides that units in SEZs that commence operations on or before 31 March 2014 are to be entitled to a grandfathering of profit linked tax deductions. However, units in SEZs will not be exempt from Minimum Alternate Tax (MAT). The long term capital gains on sale of listed shares continue to be tax exempt and short term capital gains on the sale of such shares will be taxed at half the applicable rates. Gains on sale of other assets including unlisted shares are to be taxed fully, subject to indexation benefits.

The DTC is aiming at a modern, stable and simple tax regime, which depends on the quality of tax administration's implementation.

General Provisions

The concept of previous year (PE) is replaced with a new concept of financial year which inter-alia means a period of 12 months commencing from the 1st day of April. Every person is liable to pay income –tax in respect of his total income for the financial year at the rates/conditions specified in the Schedules to the DTC after allowing credit for pre-paid taxes (including foreign tax credits)

Income has been proposed to be classified into two broad groups: ‘income from Ordinary Sources’, and ‘Income from Special Sources’.

Income from Ordinary Sources refers to ‘income from employment’, ‘income from house property’, ‘income from business’, ‘capital gains’, and ‘income from residuary sources’. ‘Income from special sources’ includes specified income of non-residents, winning from lotteries, horse races, etc. however, if such income is attributable to the PE of the non- resident it would not be considered as special source income, accordingly, such income would be liable to tax on net income basis. Losses arising from

ordinary sources would be eligible for set off or carry forward and set-off against income only from ordinary sources without any time limit. Similar treatment would apply for set off and carry forward of losses from special sources, loss arising from speculative business, losses under the head capital gains, and losses from the activity of owning and maintaining horse race to be set off only against such income in the same or succeeding financial years.

In case of delayed filing of return of income for any particular year, only losses pertaining to that year would not be allowed to be carried forward for set off in future years.

Income tax rates

The basic tax exemption limit for an individual male and female has been raised and brought at par from Rs 1,60,000 and Rs 1,90,000 to Rs 2,00,000 per annum, though senior citizens of both the sexes will enjoy tax exemption on income to Rs 2,50,000. There will be 3 slabs, tax rate of 10 percent applies on income above Rs. 2,00,000 to Rs 5,00,000; rate of 20 percent to Rs 5,00,000 to Rs 10,00,000; and rate of 30 percent above Rs 10,00,001, enhancing the levels of the existing slabs of above Rs 1.6 lakh, Rs 3 lakh and Rs 5 lakh.

Savings Limit

Savings in the form of provident funds whether public provident fund, government provident fund, or employees provident fund, in the DTC, savings limit allowed for deduction from taxable income has been increased from Rs 1,20,000 to Rs 1,50,000 including Rs 100,000 for investment in provident funds, pension funds, and other approved securities like gratuity, and Rs 50,000 for child's tuition fees, life insurance and health insurance premium and if invested in infrastructural funds, deduction of additional Rs 20,000 also can be claimed.

Retirement Benefit Account (RBA)

In case of retirement DTC exempts even withdrawal from Retirement Benefit Account (RBA) and employee's contribution to his pension fund that will be deducted from his taxable income has been increased to Rs 300,000 per annum. In case of medical reimbursement in case of any medical treatment or claim in case of money spent on any medical services, Rs 50,000 will be proposed to be exempt from tax. This is intended to help the salaried employees to meet the cost of some of the surgeries since the present limit was Rs 15,000 only which is inadequate and mostly used as consultation fee and cost of medicines.

Capital gains

Definition of 'capital assets' has been replaced with the term ' Investment Asset' Investment Asset does not include business assets like self-generated assets. Right to manufacture and other capital asset connected with business. Further, Investment Asset is defined to include any securities held by foreign institutional investors and any undertaking or division of a business.

Transfer of capital assets results in capital gains. A capital gains tax is the tax levied on the profit released upon the sale of a capital asset. Existing limit for long term capital gains (long term assets are held by a person for 3 years except in case of shares or mutual funds which become long term just after one year of holding.) on shares or securities or mutual funds on which Securities Transaction Tax (STT) has been paid and through recognized stock exchange, then no tax is payable and if not, tax rate is 20 percent, which has been retained by the proposed DTC. In case of capital gain on transfer of house property is fully exempted, if assessee purchases another house within 2 years after the sale of the house or construct a new house within 3 years after the sale of the house, which is the same as in the existing IT Act.

At present, short term capital gains are taxed at the rate of 15 percent and 2 percent surcharge and cess. As per DTC, around 50 percent of short term capital gains will be exempted and the rest will be taxed at the rate of 15 percent. In case of income from house property, as per the existing IT Act, the concept of notional rent would be considered, instead in the DTC income from house

property is to considered only if the property is let out. If an assessee has more than one house for self-occupation, the benefit of nil gross rent will apply only for one self-occupied house at the option of the assessee. The computation of remaining houses will be made as if the properties are let out. Deductions for 'Rent and Maintenance' will be reduced to 20 percent in the DTC.

Dividend and Leave Travel Allowance (LTA)

When a corporation earns profits or surplus, it can either be reinvested in the business called retained earnings, or it can be paid to the shareholders as a dividend. The DTC proposes to decrease the dividend distribution tax from existing 16.61 percent to 15 percent. In case of Leave Travel Allowance, the present system exempts LTA completely from tax, but DTC proposes to include LTA as part of total income but it qualifies deduction.

In case of Non-Resident Indian, IT Act, 1961 imposes tax on global income if he is in India for a period more than 182 days but as per DTC, the duration is reduced to just 60 days.

Penalty

Under DTC, tax department will have more powers to impose a penalty not only for concealing for the particulars of income but

also under reporting, but the penalty for tax evasion will be reduced to 200 percent from existing 300 percent.

Corporate tax

Corporate tax refers to direct taxes charged by various jurisdictions on the profits made by companies or associations and includes capital gains of the company. The corporate tax rate for Indian companies is proposed to be reduced from the existing rate of 33.33 percent to 30 percent, seeking to remove surcharge and cess on corporate tax, which should provide relief to business houses. The tax rate for foreign companies is proposed to be the same as domestic companies instead of 40 percent as per IT Act. There is no discrimination in tax rate of 15 percent in case of Dividend Distribution Tax (DDT) too.

The Code has proposed a Minimum Alternate Tax (MAT) on companies on the basis of 'value of gross assets', the rationale for imposing asset tax is that investors can expect ex-ante to earn a specified average rate of return on their assets. Instead of levying MAT at 18 percent of the adjusted book profits in case of companies where income-tax payable on taxable income according to the normal provisions of the Act is lower than the tax @ 18 percent on book profits it proposed to be levied at 20 percent on

book profits. MAT is proposed to be applicable to Special Economic Zone Developers (SEZ) and SEZ units.

It is proposed in DTC to tax at 5 percent of 'income distributed by mutual fund to unit holders of equity oriented funds' as well as 'income distributed by life insurance companies to policy holders of equity-oriented life insurance schemes.

DTC proposes to abolish surcharge and education cess. It also removes most of the categories of exempted income. All term deposits, ULIPS, principal payment, stamp duty, registration fees on purchase of house property will lose tax benefits.

Controlled Foreign Company (CFC)

The total income of a Resident taxpayer to include income attributable to a CFC which means a foreign company: that is a resident of a territory with lower rate of taxation (i.e. where taxes paid are less than 50 percent of taxes on such profits as computed under the DTC), whose shares are not listed on any stock exchange recognized by such Territory, individually or collectively controlled by persons resident in India (through capital, voting power, income, assets, dominant influence, decisive influence, etc.), that is not engaged in active trade or business (i.e. it is not engaged in commercial, industrial, financial undertakings through employees/personnel or less than 50 percent of its income is of the

nature of dividend, interest, income from house property, capital gains, royalty, sale of goods/services to related parties income from management, holding or investment in securities/shareholdings, any other income under the head income from residuary sources, etc.) and has specified income exceeding INR 2.5 million

The income attributable will be based on the net IFRS, GAAP or Accounting Standards notified under the companies Act, 1956. The said net profit will be increased by any provision for unascertained liabilities or diminution in the value of assets, reduced by interim dividend paid and prior year losses before the application of specified attribution formula.

The resident taxpayer will have to furnish details of investments and interest in entities outside India in the prescribed form and manner. The amount received from a CFC as dividend in a subsequent year will be reduced from the total income to the extent it has been taxed as CFC income in any preceding previous year. CFC provisions are applicable to taxpayers notwithstanding the provisions of the DTAA that may be more beneficial.

Tax incentives

The DTC substitutes profit-linked incentives with investment based incentives wherein capital expenditure incurred

for specified business will be allowed as a deductible expenditure. However, certain profit-linked tax incentives under the Act are grandfathered in the DTC. The investment linked incentives will apply to the businesses: generation, transmission or distribution of power, developing or operating and maintaining any infrastructure facility, operating and maintaining a hospital in a specified area, processing, preservation and packaging of fruits and vegetables, laying and operating of a cross country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of the network, setting up and operating a cold chain facility, setting up and operating a warehousing facility for the storage of agricultural produce, explorations and production of mineral or natural gas, SEZ Developers and units established in SEZ, building and operating a new hotel of two-star or above category commencing operations on or after 1 April 2010 and developing and building a housing project under slum redevelopment or rehabilitation scheme commencing operations on or after 1 April 2010.

Special Economic Zones

SEZ Developers and even units established in SEZ engaged in the business of manufacture or production of article or things or providing of services would be eligible for tax incentives. Grandfathering of profit-linked incentives under the Act to

continue for SEZ developers notified on or before 31 March 2012. In case of SEZ units, grandfathering extended for units commencing operations on or before 31 March 2014. Eligible expenditure for investment based tax incentive not to include: expenditure on purchase, lease or rental of land or land rights, and negative profit for any financial year proceeding the relevant financial year.

Mineral Oil or natural gas

In computing profits from the business of mineral oil or natural gas, deduction allowed for payment towards Site Restoration Account maintained with the State Bank of India as per scheme framed by the Central Government. Expenditure incurred on acquisition of any land including long term lease, goodwill or financial instrument not allowed as business expenditure.

Business of qualifying ships

Option made available to a company engaged in the business of operating qualifying ships to compute profits by applying the Tonnage Income Scheme. Negative profit of immediately preceding financial year can be set off against business profits. Profits derived from core shipping activities to be excluded from book profit for the purpose of MAT.

Transfer pricing provision

Provisions relating to Advance Pricing Agreement (APA) mechanism have been introduced. The CBDT with the approval of the Central Government may enter into an agreement with the tax payer, specifying the manner in which the arm's length price is to be determined in relation to an international transaction. The said agreement will be valid for a maximum period of five consecutive financial years unless there is a change in law or facts. The agreement will be binding on the tax payer and the CIT and the income tax authorities below him.

The scope of the term 'associated enterprise' has once again been brought in line with the scope as existing under the Act, and the stringent conditions proposed by the earlier draft of DTC have been removed. However, additional criteria have been introduced viz. provision of services (directly or indirectly) to another enterprise or person specified by it, if the amount payable and other terms relating thereto are influenced by such other enterprise, if any of the enterprises to the transaction are situated in any specific or distinct location which may be prescribed.

Report of international transactions certified by a Chartered accountant is to be lodged directly with the Transfer Pricing Officer instead of the AO. However, the proposal of selecting

cases for scrutiny by the Transfer Pricing Officer based on risk management strategy framed by the CBDT as contained in the DTC 2009, has been done away with. Instead, the AO shall make a reference to the Transfer Pricing Officer for determination of arm's length price which is in line with the position as contained in existing provisions of the Act.

Transfer Pricing Officer will have the power to determine the arm's length price after due verification; however, such determination will not be subject to the specific conditions as contained presently in the Act. Further, the requirement of issuance of show cause notice by the transfer pricing officer before proposing variation to the arm's length price determined by the taxpayer has been done away with.

Mergers and Acquisitions

Definition of amalgamation to include amalgamation of a firm, AOP, BOI into a company and other specified form of re-organization. The consideration for demerger is to be in the form of equity shares issued by the resulting company to shareholders of demerged company. In case of amalgamation or demerger amongst foreign companies, the condition of 75 percent shareholders continuing in the amalgamated/resulting company has been introduced for availing exemption from capital gains.

Capital gains on transfer by way of slump sale of an undertaking/division would be subject to capital gains tax. Under the earlier DTC draft, the same was proposed to be treated as business income. DTC defines business reorganization; amalgamation, (Reference to the Companies Act, 1956 incorporated), demerger, successor, predecessor. The present provision of providing exemption in respect of transfer of shares through the process of amalgamation / demerger of a foreign company with another foreign company is proposed to be extended to all assets (i.e. investment assets).

Liability of the successor in business widened and all proceedings taken against the predecessor may be continued against the successor from the stage at which it stood on the date of business re-organization.

General Anti-Avoidance Rules (GAAR)

The DTC contains GAAR provisions which provide sweeping powers to the tax authorities. The same are applicable to domestic as well as international arrangements. GAAR provisions empower the CIT to declare any arrangement as "impermissible avoidance arrangement" provided the same has been entered into with the objective of obtaining tax benefit and satisfies any one of the conditions like; it is not at arm's length, it represents misuse or

abuse of the provisions of the DTC, it lacks commercial substance and it is carried out in a manner not normally employed for bona fide business purposes. An arrangement would be presumed to be for obtaining tax benefit unless the tax payer demonstrates that obtaining tax benefit was not the main objective of the arrangement. CIT to determine the tax consequences on invoking GAAR by reallocating the income or disregarding the arrangement

Meaning of 'tax benefit' widened to include any reduction in the tax base including increase in loss. GAAR provisions are to be applicable as per the guidelines to be framed by the Central Government.

Serious concerns have been expressed that GAAR provisions are sweeping in nature and may be invoked by the Assessing Officer in a routine manner, as there is no distinction between tax mitigation and tax avoidance as any arrangement to obtain a tax benefit may be considered as an impermissible avoidance agreement. In order to safeguard the interests of the tax payers, the Central Board of Direct Taxes (CBDT) is expected to issue guidelines stating clearly the circumstances under which GAAR may be invoked beyond specified threshold limits. The forum of Dispute Resolution Panel (DRP) would be available where GAAR provisions are invoked.

Conclusion

In view of sustained reforms in ensuring liberalization and globalization of Indian economy, India Inc. has been advocating for a modern, stable, equitable, and simple tax laws and tax administration. The government is keen to expand the existing tax base to enhance the revenue collection and intensify the efforts to avert tax evasion and improve tax compliance. The proposed DTC seeks to effect a template change in taxation of income and wealth and remove annual uncertainty about tax rates. Once it is implemented from 1st April, 2012, it will be tested as to how far the objectives of the new tax laws are going to be realized. Quality tax administration to ensure effective implementation is equally important besides a modern tax code to determine the desired long term impact of the proposed new tax regime. The government has over more than a decade now pursued systemic improvements and innovative use of technology and psychology in its running battle with tax evaders. It is hoped that the DTC will further reduce incentives and opportunities for tax evasion.

COST REDUCTION STRATEGIES

A. K. Singhal*

Cost competitiveness is critical for manufacturing/service companies to survive in today's increasingly competitive and almost borderless world. All professionally managed commercial entities continuously strive to reduce the cost of their operations to survive in a competitive business environment and/or to improve their profitability. Leading international companies have staged a massive turnaround in operations driven by a reduction in direct material, variable conversion and quality costs by taking an integrated, cross-operational disciplines approach along the entire value chain. A few years ago, reduction in operating costs was 'one' of the many top management priorities. Today, however, it is 'the' most important priority with over 20 per cent annual cost savings not being considered unusual.

Integrated Cost Reduction (ICORE) is a methodology that amplifies the effect of cost, quality and time improvements achieved by focusing on individual areas. It involves a simultaneous focus on the product and the value chain that creates it. It narrows in on levers like setting aspirational targets, design to

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cost, product commonality, supplier base optimization, lean value chain and content optimization.

The method involves a diagnostic phase (to assess the potential), target setting phase (aspirational targets), idea generation and evaluation phase (involving clients, cross-functional teams, internal/external benchmarking) and syndication phase (signoffs from key stakeholders). An Implementation, Tracking and Control (ITaC) team is also put in place to ensure systematic and rigorous implementation.

Cost reduction practices provide cutting edge business consulting solutions, made possible by a team of talented individuals with a sound background in engineering, manufacturing and services. The team should be supported by a wealth of information, data and experience and help to improve their competitive edge by reducing total cost of ownership, viz., material, processing, and logistics, network, marketing and maintenance costs and reduce costs in the range of over 10 to 15 percent of their cost base.

It is widely-acknowledged fact that cost reduction is one of the most challenging tasks that a company can undertake, especially when there are so many options open to cost-conscious managers.

Here is a broad action plan for cost reduction:

- You need to know precisely how and where your costs are distributed throughout your company.
- You want to know where to focus your cost reduction efforts for maximum advantage.
- You require help to manage your cash flows, increase your gross tax margins and net profits, and reduce your overall tax rates.

- You need assistance in identifying all the hidden costs in your company.
- You must detect all the weaknesses in your financial controls systems

Of the many solutions to improve company's cost-efficiency, the cost of capital comes first and foremost, which usually the operational managers see as a kind of 'given'. It is often overlooked while focusing collective energy of all managers in improving the profitability margins. In the short run, there may be less flexibility to reduce the cost of capital but this should be part of any cost cutting programme. If capital costs are an issue, then strategies need to be developed to reduce the cost of capital by enhancing the use of equity, debt and surplus funds through the finance and treasury functions.

Next in terms of importance and relative inflexibility to change is the personnel cost. Employee costs can typically account for more than 40 per cent of operating budgets. You would like to reduce the costs associated with all of your employment costs. Once we factor in the negative effects of cyclical economic downturns, it is easy to see why many companies chose to downsize their workforce so that they can reduce expenses, remain competitive, and boost their bottom line. Outsourcing noncore functions to contractors or other companies has long been an important tool for lowering costs and enabling business to focus on what they do best. And such streamlining can greatly improve productivity and increase competitiveness. If it turns out that downsizing is your best option, than create and manage an effective and efficient downsizing operation. You would like to outsource some of your

operations but need help sourcing companies and managing the social, ethical and environmental risks that your plans will inevitably raise. Manage your entire outsourcing supply chain – efficiently and cost-effectively. You are thinking of downsizing, but you know that workforce reductions don't always yield the promised profits; that such expenses cuts are followed by revenue loss. You need reliable advice on how to proceed. Your company is already feeling the effects of an increase in older workers and you must find a way to reduce your benefits costs.

Another important factor in cost cutting is review of tax burdens. Done correctly, an integrated tax reduction program can relieve the (sometimes) onerous financial burdens that can stymie a company's development and can free up precious capital that can be redirected to the firm's long-term benefit.

Finally we come to non-personnel operating costs, which are usually the focus of cost-cutting agenda through meticulous review of production processes and value engineering, reduction in machine downtime, input material consumption, control of rejections and wastages etc.

What is the best approach to cost reduction? Begin at the beginning, by understanding that controlling operating cost is fundamental to improving competitive advantage in the marketplace. In fact, to preserve or boost profit margins in the future, the entity must be able to account for all the costs throughout the length and breadth of its operations. It sounds simple enough but it is not so.

There can be significant product cost saving, manufacturing cost saving, and life cycle cost saving when companies *interested* in cutting costs implement all the 8 elements of following *cost reduction strategy*:

1. Cost Reduction by Design

- Product development determines 80% of product cost. The concept/architecture phase alone determines 60% of cost! Cost is very hard to remove later after products are designed.
- Significant cost reductions by design for parts, labor, material overhead, quality, and product development;
- Practice Concurrent Engineering with early and active participation of manufacturing, purchasing, vendors, etc.
- Implement Design for Manufacturability (DFM), Design for Lean, and Design for Quality
- For dramatic cost reduction - *half cost to order-of-magnitude* - optimize the concept/architecture phase
- To convert ideas, research, or prototypes into viable *products*, use commercialization techniques to ensure success.
-

Activities Supportive to Low Cost Product Development:

- Co-locating Engineering with Manufacturing ensures the best teamwork; avoid distant outsourcing and offshoring.
- If outsourcing, choose local vendors which ensures early and active vendor participation in product development teams.
- Pre-select Vendor/Partners who will help develop products; avoid low-bidding so that vendors will help with design

- Implement standardization and good product portfolio planning for the best focus.
- Total cost measurements to quantify all costs affected by design
- Correcting Counterproductive Policies. New ventures and startups will be able to implement these principles right away. Established companies may have to first correct counterproductive policies, by prioritizing portfolio planning, scrutinizing high-overhead sales, emphasizing thorough up-front work, quantifying all costs, and avoiding time-draining attempts to reduce cost after design, going for the low-bidder, or moving production offshore.

2. *Lean Production Cost Reduction*

Lean production benefits include doubling labor productivity, cutting production throughput times by 90 percent, reducing inventories by 90 percent, cutting errors and scrap in half errors

- Significant cost reduction possible by raising labor productivity and eliminating waste

Activities Supportive to Lean Production:

- Design product families for lean production
- Concurrently Engineer flexible processes
- Implement standardization to enable dock-to-line distribution
- Rationalize products to eliminate the most unusual products with the most unusual parts and processes
- Total cost measurements to quantify all costs related to manufacturing

- Keep control of manufacturing in-house or with vendor/partners; avoid outsourcing for cost; avoid long and distant supply chains

3. Overhead Cost Reduction

Cost Reduction Opportunities:

- Standard products can be build to-order without forecasts or inventory and specials can be mass-customized on-demand
- Inventory carrying costs can be eliminated
- Procurement costs can be reduced with automatic, on-demand resupply
- Better responsiveness leads to more sales
- Implement Build-to-Order and Mass Customization to build products on-demand without forecasts or inventory
- Implement lean production
- Rationalize products
- Total cost measurements to quantify overhead costs
- Keep control of manufacturing in-house or with vendor/partners; avoid outsourcing for cost; **avoid long and distant supply chains**; avoid off shore manufacturing.

4. Cost Reduction through Standardization

- Standard part lists can be 50 times less than proliferated lists
- Standard parts are easier to get and fewer types need to be purchased **Standardization Benefits**
- **Economies of scale** result from larger purchases
- Material overhead of the standard parts can be one-tenth that of proliferated lists

- Implement Standardization with a practical procedure has been developed to standardize part and materials for new designs
- Rationalize products to eliminate or outsource the most unusual products that have the most unusual parts and materials
- Total cost measurements to justify standardization efforts and encourage picking standard parts
- Don't merge acquired products into the same plant or build others' products; see article on Negative Effects of Mergers and Acquisitions.

5. *Product Line Rationalization* Cost Reduction

- Focus on the most profitable product
- Eliminate the "loser tax" on cash-cows to subsidize low-margin products
- Identify and remove products that are losing money on a total cost basis
- Reduce overhead demands and costs for hard-to-build "loser" products
- Free up valuable resources to work on cost saving efforts in engineering , operations and supply chain management
- Implement Product Line Rationalization to eliminate or outsource low-profit products that have high overhead demands and are not compatible with cost reduction strategies
- Product Portfolio Planning focuses new product development
- Total cost measurements to identify opportunities and supports rationalization decisions

6. *Supply Chain Management Cost Reduction*

Cost Reduction Opportunities:

- Supply Chain Simplification can greatly simplify Supply Chain Management
- Spontaneous supply chains can pull parts into production on-demand without forecasts or inventory

The Results:

- Material overhead can be reduced by a factor of 10 for standard parts and materials
- Purchasing leverage results from high quantities of standard parts
- Automatic resupply eliminates forecasts, purchase orders, inventory, and expediting costs

How to Reduce Cost in Supply Chain Management:

- Design products around standard parts to simplify Supply Chain Management
- Standardize parts to focus Supply Chain Management on high-volume, easy to get parts
- Rationalize away the most unusual products which have the most usual, hardest-to-get parts
- Establish Vendor/Partnerships, which saves more money than low-bidding

Activities Supportive to Supply Chain Cost Reduction:

- Total cost measurements to encourage and justify standardization and rationalization
- Don't merge acquired products into the same plant or build others' products; see article on Negative Effects of Mergers and Acquisitions.

7. *Quality Cost Reduction*

- The Cost of Quality can be 15% to 40% of revenue;
- Quality costs can be greatly reduced; in some cases reducing quality costs can double profits
- Eliminating quality costs starts with designing in quality
- Quality costs in manufacturing can be eliminated with Six-Sigma programs
- Rationalizing away unusual products raises net factory quality and avoids wasting quality resources on inherently lower quality products.

8. Total Cost Measurement to Support All Cost Reduction Activities

Cost Reduction Opportunities:

- Total cost measurements are imperative to encourage and support the above activities to reduce all cost categories

The Results:

- All the above cost reduction activities are encouraged and supported; the results are quantified, thus encouraging more total cost reductions.

How to Reduce Cost with Total Cost Measurements:

- Implement total cost measurement with the easy-to-implement *cost driver* approach

Activities Supportive to Total Cost Measurements:

- Until total cost can be quantified, everyone must make decisions based on *total cost thinking*
- Senior management understands the importance of quantifying total cost, implements total cost measurements, and encourages all cost decisions to be made on basis of total cost

How *Not* to Lower Cost; Short-sighted attempts prevent *real* cost reduction

Don't try to remove cost after the product is designed because cost is designed into the product and hard to remove later; see article on How Not to Lower Cost

Don't use low-bidding, which only *appears* to save one category of cost, but can substantially raise many less-obvious costs and compromise other important goals like quality, delivery, and missing out on the major contributions that vendor/partners can make when they help product development teams design products; see article on Low-Bidding.

Don't outsource or offshore manufacturing for cost, which will *not* result in a *net* cost savings because of hidden overhead costs and because *it inhibits, compromises, or thwarts 6 out of the 8 cost reduction strategies* (presented on the home page) due to the following reasons:

Outsourcing or off-shoring manufacturing separates manufacturing from engineering and thus thwarts Concurrent Engineering and compromises the 80% of the cost determined by the design. Further, transferring, supporting, and dealing with quality and delivery problems of remote manufacturing absorbs many resources in engineering (in one case, 75%), manufacturing, and purchasing whose time would be better spent developing low-cost products. See Cost Reduction by Design summary and the article Design for Manufacturability

Outsourcing or offshoring manufacturing to distant contract manufacturers increases the delivery time, which makes it hard to *pull* parts just-in-time and makes build-to-order impossible. Further, parts may be batched for shipping, which is opposed to

the *one piece flow* aspects of Lean Production. Finally, outsourcing or offshoring manufacturing removes production from the control of the OEM manufacturer. All of these effects conspire to:

- Compromise Lean Production; see Lean Production Cost Reduction summary and the article on Lean Manufacturing
- Make it impossible to implement Build-to-Order and Mass Customization; see Overhead Cost Reduction summary and the Build-to-Order article and Mass Customization article.
- Make it hard to implement standardization because contract manufacturers' preferred parts probably won't correspond to your standard parts, so, in order to realize the production benefits of standardization, part numbers may have to be changed, which may *increase* a company's part proliferation.
- Make it hard to optimize supply chains; see Supply Chain Management Cost Reduction summary and details in the articles on outsourcing and offshoring.
- Make it hard to maximize quality and implement Six Sigma without data and control over manufacturing; see Quality Cost Reduction summary and the article designing in Quality.

If all 8 cost reduction strategies are implemented, the cost savings will be much greater than *appeared* possible through outsourcing or off-shoring.

A case study

Introduction:

M/s ABC company is the established manufacturer of state of the art electronic components and controls devices used in different

industries having an annual turnover of 4000 crores. After liberalization the company was facing the problem of cost competitiveness resulting in the erosion of customer base. To make their product cost effective, the company has taken various cost reduction measures, which resulted in considerable reduction in the product cost and also increase in profitability over the period.

Methodology

The task force to identify projects and set targets for achieving cost reduction as part of annual Roll-on-Plan was set up. Cost reduction is benchmarked against cost of manufacturing of the last batch and this drive enables:

- To control the product price
- Competitive advantage
- To enhance profitability of the company

Thrust areas of Cost reduction in Direct Areas

- Design change
- Material
- Manpower
- Indigenization
- Alternate Sourcing
- Stock Management
- Process Improvement
- Quality Improvement
- Energy Conservation

Thrust areas of Cost reduction in Indirect Areas

- Use of cheapest fare for air travel

- Bulk purchase of medicine & distribution under the Employees medical scheme
- Use of better logistic method while procuring raw materials & dispatch of finished goods
- Better Financial Management
- Increasing the utilization of resources
- Bulk purchase agreements with manufacturers for purchase of components, Test equipment etc.

Review Mechanism

- Cost reduction target for each unit is finalized during the annual Roll-on –plan
- The cost reduction activity is reviewed by the unit heads periodically and also during mid-year performance review.
- A steering committee under the chairmanship of Director with 7 member team was set up to review and guide the cost reduction.

Some Major Cost reductions

Design Change

The various aspects considered to reduce the cost at design stage are Miniaturization and use of multifunction components in case of discrete components etc.

- One control unit for control of 2 units.
- Redesign of drive unit, racks etc.
- Change from metal enclosure to polycarbonate enclosure.

Outsourcing

Covers outsourcing of non core activities which will enable company to focus on high end activities.

- Cable assys.
- Installation work.
- Testing of sub-assemblies.

Alternate sourcing

Development of more than one source for procurement of material/services

Indigenization

- Indigenous design in place of imported design.
- Indigenous power supply in place of imported supply
- Indigenization of cable drum
- Indigenization of Automated Test equipment
- Indigenization of GPS cable

Process Improvement

Study of key process and ascertain elimination of non-value added activities.

- Cycle time reduction due to change in testing process from bench testing to automated test equipment testing.
- Yield improvement by designing & fabricating the fixture.

Energy conservation

The various aspects covered are installation of energy saving devices & encouraging use of alternate energy sources(Solar, windpoweretc)

- CFL bulbs introduced in place of tube lights.
- Split AC was introduced instead of centralized AC.
- Setting up of wind energy power plants.

Quality Improvements

- Applying 6 Sigma concepts, QCC, Suggestion etc

Others

- Nonmoving unused lead sheets are converted into required sizes of lead sheet by re-rolling & shearing.
- Rerouting of buses.
- Carton packing boxes instead of wooden packing boxes.
- Negotiation with Vendors.

Cost Reduction Achieved

(Rs in lacs)

YE AR	Cost Reduction										
	DC	OS	AS	S M	IN D	PI	M AP	E C	QI	Oth ers	Tot al
200 9-10	64 9	21 55	31 50	79	21 19	70 5	362	7 1	61 1	525	104 26
201 0-11	10 62	24 93	39 71	30 5	27 86	69 3	269	7 2	79 1	629	130 71

DC- design change, **OS-** outsourcing, **AS-**Alternate source, **SM-** Stock management, **IND-**Indigenization, **PI-** Process improvement, **MAP-** Manpower, **EC-** Energy conservation, **QI-** Quality Improvements

Benefits

- On account of continuous cost reduction efforts, M/s ABC company could control the manufacturing cost.
- The cost reduction efforts have led to face the competition effectively and have become way of life.
- The cost reduction efforts have been institutionalized across the company and have sensitized the employees of its benefits to the bottom line of the company.

EPC CONTRACTS – AUDIT PERSPECTIVES FROM ANDHRA PRADESH

K.V.S.S. SitaramaRao*

1. Introduction

1.1 The article on Engineering, Procurement and Construction (EPC) contract system appearing in an earlier issue of the journal (July 2010 to December 2010) is a comprehensive dissertation on its concepts. While much has been agreeably said eulogizing the merits of the system compared to the conventional item rate contracts, it is also necessary to be aware of the pitfalls in its practical implementation to appreciate the subject in a more realistic perspective. The present article seeks to highlight a few such snags which were not discussed in the earlier article. Some of these issues are also subject matter of the comments made by the Comptroller and Auditor General of India (CAG) in his Audit Reports on the accounts of the State of Andhra Pradesh. It is very likely that the issues discussed now relating to Irrigation Department of Andhra Pradesh have relevance to EPC contracts in general elsewhere too.

1.2 The basic feature of the EPC system is that the employer of the work invites bids for a project as a whole, including survey, investigation, design and execution. The bidders are asked to

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quote a firm lumpsum price on a single source responsibility basis. The bid notice contains the basic parameters of the project and a project profile containing indicative or tentative drawings and specifications for the guidance of the bidders. It is open to the bidders to modify them without deviating from the basic parameters. The modified designs are, however, subject to approval by the employer.

1.3 Now, this would mean that the bidder has to do for himself a lot of homework on survey, investigation designs and then work out his bid on the basis of the data gathered. This is the crux of the issue and is at the root of many questions that would crop up at a later stage about the efficacy of the system.

2. **Critical issues:** The critical issues and the comments of CAG which are relevant thereto are broadly discussed under the following captions.

- i) Evaluation of bids.
- ii) Post bid changes in designs and specifications
- iii) Post construction maintenance
- iv) Quality control

2.1 **Evaluation of bids**

2.1.1 Firstly, a meaningful comparison and evaluation of technical and price bids by the employer is logically possible only when he has his own version of technical and price estimates. In the EPC system, when the employee has not conducted any survey and investigation and is not equipped with any concrete data

except the ultimate outputs (basic parameters), how far is it practicable for him to evaluate different bids with different data/designs and to select the successful bidder in an objective and foolproof manner? Is it possible to analyze each bidder's design within the limited time for bid acceptance and approve or reject it?

The CAG, in Para 3.2.9 of Audit Report of the State for the year 2006-07 observed that the department was preparing Internal Bench Mark (IBM) estimates, without detailed investigation, designs, drawings or quantities of work and was comparing the bids with these estimates. He opined, that any erroneous estimation in adopting inflated quantities or more expensive specifications would result in undue benefit to contractors.

2.1.2 Secondly, a situation may arise when, the bidder, for his own reasons, does not support his bid with detailed drawings specifications or offers to submit them in due course. Normally, this is what any contractor often does, for one legitimate reason that the bidding time is too insufficient for anyone to conduct a detailed survey or investigation of a mammoth work like an irrigation project and to formulate designs etc. Another reason could be his ulterior motive to somehow bag the contract by pitching his price bid as close as possible to IBMs, and later indulge in machinations with designs, drawings, to make the best out of the deal. He is also confident that the employer would not insist on prior submission of designs, as in any case it is the bidder, who is to formulate the designs, subject to the basic parameters. The risk for non-submission of proper designs too, is more with the bidder himself rather than the employer.

How should the employer react in such situations? Reject the bid as vague and baseless or consider the bid for evaluation? This is a ticklish situation for the employer, in the evaluation process.

2.1.3 Thirdly, going to the roots of the concept of a contract, Section 20 of Indian Contract Act envisages 'identity of understanding' (consensus ad idem) between the parties to a contract, as an essential element, to constitute a legally valid contract. When neither the employer nor the bidder communicates to one another, the specific designs, drawings etc., before the bid is evaluated and contract concluded, is there identity of understanding between them as to the exact scope of work to be executed? How far then a legally viable contract is constituted? This point needs a more incisive debate.

2.2 **Post-bid changes in designs and specifications:**

When the bidder does not support his bid with detailed designs/specifications, what is he committing himself to in his price-bid? Achievement of basic parameters in abstract terms? This cannot be the case, since his designs too have to be approved by the employer. Moreover entertaining a bid without basis amounts to encouraging speculation.

On this issue there is a plethora of observations made by CAG in his Audit Reports, on the premise that the (price) bids in such cases conform to the indicative or tentative drawings/specifications in the IBM estimates or bid notice. The CAG held that the erroneous inflation of quantities or designs in the IBMs resulted in undue benefit to the contractors, as there was

no provision in the agreements to revise the price bid as per actual execution. The cases are summarised below.

2.2.1 Para 3.2.9.1 – Audit Report for 2006-07 (Sripadasagar Project)

The IBM estimates included laying of 3m dia pressure main with 20mm thick steel plate for a total length of 80 k.m.

After the work was awarded (May 2005) to the contractor, the department approved (May 2007) the designs submitted by the contractor with steel thickness ranging from 16mm to 24mm for different reaches. This resulted in savings of Rs.87.57 cr to the contractor on the steel less used in the work compared to the IBM provision. The department stated that there was no provision in the agreement regarding thickness of steel and therefore payment could not be restricted.

2.2.2 Para 3.2.9.2 of Audit Report for 2006-07 (Alisagar Lift Irrigation Scheme)

The IBM estimates provided for laying of MS pipeline, with 1.80mm dia for 5.60 km and 1.60mm dia for 1.53 km and the work was awarded in March 2005. Later, during execution, the department approved (June 2005) revised designs submitted by the contractor reducing the total length from 7.20 km to 6.21 km, with thickness of 2.2 on dia for 5.33 km and 1.8 mm dia for 0.88 km. This resulted in savings of Rs.20.54 cr to the contractor, on the steel less consumed on the work, compared to the IBM estimates. The department replied that as the contract price was firm and the less utilization of steel was due to change of designs, the differential cost was not recoverable from the contractor.

2.2.3 Para 3.2.9.3 of Audit Report for 2006-07. (Arugula RajaramGuthpa Lift Irrigation Scheme)

The scope of work included laying of pressure mains according to the relevant IS codes. As per the IS code applicable to 450 mm to 3000 mm dia pipes used in the work, the inner lining should be 25mm thick. This was also confirmed by an experts' committee constituted for the purpose as also the Chief Engineer. However the contractor executed the work with 15mm thick inner lining, relying on another IS code which was not relevant. The department approved the change on grounds of overcoming contractual obligations. This resulted in undue benefit of Rs.32.47 lakh to the contractor.

2.2.4 Para 4.7.1 of I Audit Report for 2008-09

Deficiencies in execution of works-Undue benefits to contractors-Thotapalli Barrage Project.

As per the basic parameters of the agreement, the length of the canal to be excavated was 52.45km. During execution the length was reduced to 48.88 km. However, no recovery was made from the contractor, on the ground that the award of work was on a fixed price basis and that there was no clause in the agreement for pro rata reduction in payment. This led to undue benefit of Rs.8.16 cr to the contractor.

2.2.5 Para 3.4.3 of Audit Report for 2009-10 (Dr. K.L. RaoSagar Project)

The department prepared the estimates without survey/investigation and concluded agreement with the contractor

without firming up designs. There were post-tender reductions in quantities indicated in the bid notice for length of the spillway, number of gates, width of stilling basin and length of non-overflow dam. According to the Government, quantities were not relevant in EPC contracts, and the system does not envisage reduction in payment for reduction in quantities.

Surprisingly, the department conveniently changed stance when there were increases in quantities, and paid the contractor Rs.46.08 cr for (i) increase in length of stilling basin, ii) raising the trunnion level of spillway gates and iii) widening the carriage way on the dam.

2.2.6 Para 3.4.5. of Audit Report 2009-10 (Rajiv Bhima Lift Irrigation Scheme)

The estimates prepared by the department included main canal lining with 100mm thickness. However, the work was executed with 60 – 75mm thickness. The monetary value of the reduction in the specification was Rs.13.22 cr . Similarly, in the lift package, the estimate provided for 2808 m length of pipeline with 14 – 16mm thick steel. But the work was executed for a length of 740m using 14mm thick steel. The value of the modification worked out to a decrease of Rs.8.03 cr in the cost of the work. The total undue benefit to the contractor was Rs.21.25 cr.

2.2.7 Para 3.4.6. of Audit Report 2009-10 (KandulaObula Reddy Gundlakamm Project).

There was an excess payment of Rs.22.43 cr. due to reductions in quantities of Right and Left main canals and cement concrete structures.

2.3 Post construction maintenance

To ensure quality of designs and construction as also to guard against sub-standard work, EPC contracts normally include in the package, maintenance of the work, usually for 2 years after its completion and commissioning.

The CAG noted a few cases of overpayments to contractors, owing to non-inclusion of specific clauses in the agreement segregating this component from the package price or providing for its payment only after attending to the maintenance. Following are the details.

2.3.1 Para 4.3.4 of Audit Report for 2007-08 (Galeru-Nagai SujalaSravanthi)

The agreement with the contractor provided for maintenance of the work for 2 years and a total amount of Rs.1.53 cr. was earmarked for this out of the package price. During execution, the contractor expressed unwillingness to execute some additional work and therefore his contract was closed and the balance works were entrusted to another contractor. A sum of Rs.1.23 cr was paid to the first contractor towards maintenance, along with payment for construction, though his contract was closed midway, and he would no longer be maintaining the work after commissioning.

2.3.2 Para 1.4.7.1 of Audit Report for 2008-09 (KomaramBhim Project)

The agreement with the contractor envisages maintenance of the project by him for 2 years after its completion. A provision of 2 percent was made in the IBM for this component. However, there was no clause in the agreement to retain the amount till satisfactory completion of the maintenance period, leading to release of the maintenance cost also, even before the maintenance was attended to.

2.3.3 Para 3.4.4. of Audit Report for 2009-10 (SriramaSagar Project)

The agreement with the contractor provided for maintenance of a canal work for 2 years after its completion. An amount of Rs. 3.31 cr. at 2 per cent of the value of work was earmarked for this purpose. However, while making interim payments for the construction work, the department did not withhold the 2 percent. Consequently, the amount intended for maintenance also got released even before the work itself was completed and commissioned.

2.3.4 A major issue for consideration, in this context is, if a project fails to last for its full expected period, what is the security in the hands of the employer to fix responsibility on the contractor for the huge costs incurred? Unlike in the case of conventional contracts, where the departmental engineers can be held responsible for design failure, EPC contractors go scot free.

2.4 Third party quality control.

Unlike the conventional contracts, where the quality control is exercised by the departmental engineers, the EPC contracts envisaged entrustment of the work to a Third party.

The CAG made a comprehensive study of the system in Para 1.3 of his Audit Report for 2008-09. The following are some of the important findings:

- i) The departmental engineers did not monitor the quality control checks exercised by the Third Party, before releasing payments to contractors (Para 1.3.6)
- ii) The Executive Engineer entrusted with the monitoring of the quality control did not know about the quality tests carried out by the contractors, or their verification by the Third Party agency. (Para 1.3.6)
- iii) There was no co-ordination between the EPC contractor and the Third Party. (Para 1.3.6 and 1.3.7)

The CAG concluded that checking of quality of projects is too critical a function to be outsourced to a third party with no representation of Government.

3. **Conclusions:**

In conclusion it is felt that the following corrections may render the EPC system more credible and workable.

- i) The department should entrust only those works on EPC basis for which it has already conducted survey and investigation and has a properly sanctioned estimate.
- ii) The bidder should be asked to submit his designs invariably with his bid, failing which the bids should be rejected. The

designs should be approved by the employer before awarding the work, so as to avoid disputes on price bid variations for post bid changes in specifications.

- iii) The agreement provisions on post construction maintenance should be so framed as to safeguard employer's interest.
- iv) Quality Control should not be left solely to the third party, but should be a joint exercise of the department and third party.

DOCUMENT

THE DELHI (RIGHT OF CITIZEN TO TIME BOUND DELIVERY OF SERVICES) ACT, 2011

CHAPTER – I PRELIMINARY

1. **Short title, extent commencement and application.-** (1) This act may be called the Delhi (Right of Citizen to Time Bound Delivery of services) Act, 2011,
 - (2) It extends to the whole of National Capital Territory of Delhi.
 - (3) It shall come into force on such date as the Government may, by notification, appoint.
 - (4) This Act shall apply to government servants appointed substantively to any civil services or posts in connection with the affairs of the Government of National Capital Territory of Delhi and to the servants of local bodies and authorities which are owned, controlled or substantially financed by that Government, but shall not apply to –
 - (i) persons appointed on casual or daily rates basis;
 - (ii) persons employed on contract except when the contract provides otherwise;

Persons whose terms and conditions of services are regulated by or under the provisions of the Constitution.

- 2. Definitions.-**In this act, unless the context otherwise requires, -
- (a) “Appellate Authority” means an officer appointed by the Government or local body, as the case may be, by notification, invested with the power to hear appeals against the orders passed by any competent officer under this Act;
 - (b) “citizen related services” include the services as specified in the schedule;
 - (c) “competent officer” means an officer appointed by the Government or local body, under section 9 of this Act, by notification, who shall be empowered to impose cost on the government servant defaulting or delaying the delivery of services in accordance with this Act;
 - (d) “Delhi” means the National Capital Territory of Delhi;
 - (e) “department” means a department of the Government or department of a local body, as the case may be;
 - (f) “Government” means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 and designated as such under article 239 AA of the Constitution;
 - (g) “government servant” means a person appointed substantively to any civil service or post in connection with the affairs of the Government including, person working on deputation basis; and person appointed in a local body which is owned, controlled or substantially financed by that Government;
 - (h) “local body” includes any public authority, municipality, Delhi Cantonment Board, Delhi Jal Board, Town Planning Authority, Delhi Development authority or any other body or authority, by

whatever name called, for the time being invested by law to render essential services of public utility within the territory of Delhi or to control, manage or regulate such services within a specified local area thereof;

- (i) “notification” means a notification published in the official Gazette;
- (j) “public authority” means any authority or body or institution of self-governance established or constituted (i) by or under the Constitution; (ii) by any other law made by Parliament; (iii) by any law made by the Legislature of a State or union territory; (iv) by a notification issued or order made by the Government; and includes (a) a body owned, controlled or substantially financed by the Government; (b) a non-government organization substantially financed, directly or indirectly, by the funds provided by the Government; and (c) an organization or body corporate in its capacity as an instrumentality of ‘State’ as defined under article 12 of the Constitution and rendering services of public utility in Delhi;
- (k) “rule” means a rule made by the Government under this act, by notification;
- (l) “Schedule” means the Schedule appended to this Act;
- (m) “year” means a calendar year commencing on the 1st day of January and ending on the 31st day of December.

CHAPTER – II
CITIZEN’S RIGHT TO TIME BOUND DELIVERY OF
SERVICES, AND PROCEDURE GOVERNING FIXING OF
LIABILITY IN CASE OF DEFAULT, ETC.

3. **Right of citizen to obtain time bound delivery of services.-** Every citizen shall have the right to obtain the citizen related services in Delhi in accordance with this act within the time bound period as stipulated in the Schedule:

Provided that the Government shall be entitled to amend and revise the Schedule from time to time by notification.

4. **Liability of government servant to deliver services within the stipulated period.-** Every government servant shall be duty bound to deliver citizen related services as specified in the Schedule within the time period as stipulated in the Schedule.

5. **Monitoring the status of the application.-** (1) Every citizen having applied for any citizen related services shall be provided an application number by the concerned department, or local body, as the case may be, and shall be entitled to obtain and monitor status of his application online in accordance with such procedure as may be prescribed.

(2) The department or local body, as the case may be, shall maintain status of all applications governing citizen related services online and shall be duty bound to update the status of the same as per the procedure as prescribed by rules in this regard.

6. **e-governance of services through mutual understanding.-** The government shall endeavor and encourage all the departments, local bodies and authorities of the government to enter by mutual understanding to deliver their respective citizen related services in a stipulated time period as part of e-governance.

7. **Liability to pay cost.-** Every government servant who fails to deliver the citizen related services to a citizen within the stipulated time as stipulated in the Schedule, shall be liable to pay cost at the rate of ten rupees per day for the period of delay subject to maximum of two hundred rupees per application, in aggregate, which shall be payable by him to the citizen as compensatory cost.
8. **Payment of compensatory cost to the citizen.-** At the time of delivery of citizen related services, the citizen having applied for such services shall be entitled to seek compensatory cost in accordance with the provisions of this Act and rules made there under, in case of delay in the delivery of such services, beyond the period prescribed in the Schedule.
9. **Appointment of competent officer.-** (1) The Government and in the case of a local body, the local body concerned shall appoint, by notification, an officer not below the rank of Deputy secretary or its equivalent rank in the case of local body to act as competent officer empowered to impose cost against the government servant defaulting or delaying the delivery of services in accordance with this Act.

(2) The Government or the local body concerned, as the case may be, shall for the purpose of payment of cost, confer on the competent officer the powers of drawing and disbursement officer in accordance with the law, procedure and rules as applicable.

(3) On such demand of compensatory cost by the citizen, at the time of delivery of citizen related services, it shall be the duty of the competent officer to pay such cost to the citizen against acknowledgement and receipt as per the format as prescribed in the rules.

10. Procedure governing fixing of liability.- (1) within a period of fifteen days of the payment of such compensatory cost, the competent officer, after conducting preliminary enquiry, shall issue a notice against the government servant found responsible for the delay in delivery of such citizen related services, calling upon him as to why the compensatory cost paid to the citizen may not be recovered from him.

(2) The government servant against whom such notice is issued may represent within a period of seven days from the date of receipt of such notice. In case no such representation is received by the competent officer within the prescribed period or the explanation received, if any, is not found satisfactory, the competent officer shall be entitled to issue debit note directing such defaulting government servant either to deposit the cost as stipulated in the debit note or directing the accounts officer concerned to debit the salary of such government servant for the amount as mentioned in the debit note:

Provided that if the competent officer finds reasonable and justified ground in favour of such government servant and comes to the conclusion that the delay in the delivery of services to the citizen was not attributable to him but was attributable to some other government servant, it shall be lawful for the competent officer to withdraw the notice against him and issue fresh show

cause notice to such other government servant as found responsible for the delay and shall follow the procedure mutatis-mutandis as stipulated in this sub-section and sub-section (1) of this section.

(3) While fixing the liability under this Act, the competent officer shall follow the principles of natural justice before passing the order in that respect.

CHAPTER – III
RIGHT OF APPEAL AGAINST THE ORDER FIXING
LIABLILTY

11. **Right to appeal.**- (1) Any government servant aggrieved by the order passed by the competent officer in accordance with sections 9 and 10 shall be entitled to file an appeal to the Appellate authority against such order within a period not exceeding **thirty days** of the receipt of the **impugned** order. The order of the Appellate Authority shall be final and binding:

(2) For the purpose of this section, the Government or the local body concerned, as the case may be, shall appoint an officer to be the appellate Officer to hear and decide appeals against the order passed by the competent officer. The Appellate Officer shall not be below the rank of Joint Secretary of the Government or its equivalent rank in the case of a local body.

CHAPTER – IV
MISCELLANEOUS

12. Developing culture to deliver services within fixed period.-

(1) The defaults on the part of government servant in the time bound delivery of citizen related services as defined in this Act shall not be counted towards misconduct as the purpose and object is to sensitize the public servant towards the citizen and to enhance and imbibe a culture to deliver time bound services to the citizens.

(2) In case of habitual defaulter, the competent officer shall be competent to take appropriate administrative action after recording a finding to this effect but not before giving a show cause notice and opportunity of hearing to the defaulting servant.

Explanation.- For the purpose of this sub-section, a government servant shall be deemed to be habitual defaulter in case he incurs more than twenty five defaults in one year.

(3) To encourage and enhance the efficiency of the government servants, it shall be lawful for the competent officer to recommend cash incentive not exceeding five thousand rupees in aggregate in favour of a government servant against whom no default is reported in one year. On such recommendation, the Government or the local body concerned, as the case may be, shall be competent to grant such incentive as it deem fit and proper, not exceeding the amount as recommended by competent officer, alongwith certificate of appreciation.

13. **Deemed service condition.-** The provisions of this Act shall be deemed to be part of service conditions of the government servants including such servants of local bodies of the Government.

14. **Supplement.-** The provisions of this Act shall be supplemented to the disciplinary and financial rules and such other services rules and regulations as applicable to the employees of the Government or local body concerned, as the case may be, and not in derogation to such services rules and regulations governing the service condition and conduct of the government employees or the employees of the local body concerned.

15. **Power to make rules.-** (1) The Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particulars, and without prejudice to the generality of the forgoing power, such rules may provide for all or any of the following matters, namely : -

- a) The manner and the forms of giving notice under this Act;
- b) The procedure governing preliminary enquiry and adjudication by the competent officer governing fixing of liability of cost;
- c) The procedure governing adjudication of appeals by the appellate authority;
- d) The procedure pertaining to application governing citizen related services;

- e) The procedure governing generation of application number online;
- f) The procedure governing managing , maintaining, operating of online status of the applications of citizen related services;
- g) Any other matter which is required to be, or may be prescribed.

(3) Every rule made under this Act by the Government shall be laid, as soon as may be after it is made, before the Legislative Assembly of Delhi, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of session immediately following the session or the successive sessions aforesaid, the Legislative Assembly agrees in making any modification in the rules or the assembly agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

16. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the official gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulties:

Provided that no such orders shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the Legislative Assembly of Delhi.

List of Proposed e-SLA services : -

Sl. No.	Department Name	Services
1.	Revenue Department	Application for mutation of land records
2.	Revenue Department	Issuance of birth and death registration order
3.	Revenue Department	Issuance of NOC, for property registration purposes etc.
4.	Transport Department	Issuance of Learners Licence
5.	Transport Department	Issuance of Permanent Licence
6.	Transport Department	Renewal of Permanent Licence
7.	Transport Department	Application for registration of vehicle
8.	Transport Department	Application for transfer of registration of vehicle

9.	Chief Electoral Office	Issuance of election Identify Cards
10.	Chief Electrol Office	Inclusion of name in ElectrolList
11.	NDPL/ BSES	Application for new electricity connection
12.	Drug control department	Grant of license for chemist shop
13.	Weights & Measures	License for manufacturer of weights & measures
14.	Weights & Measures	License for repairer of weights & measures
15.	Weights & Measures	License of Dealer in weight & measures
16.	Weights & Measures	Renewal of license for manufacturer
17.	Weights & Measures	Renewal of license for repairer
18.	Department of welfare of SC/ST/OBC/ Minority etc.	Merit –cum- means post matric scholarship for minority
19.	Labour Department	Registration under shops and establishment Act
20.	Labour Department	Renewal of license for operating lifts
21.	Delhi Pharmacy Council	First (Fresh) Registration
22.	Delhi Pharmacy	Issue of registration certificates on the

	Council	basis of transfer from other states to Delhi Pharmacy Council
23.	Delhi Pharmacy Council	Renewal of registration certificate
24.	Directorate of Small Savings	MahilaPradhanKshetriyaBachatYojna (MPKBY) authorized agent/ renewal of agency
25.	Directorate of Small Savings	Standardize agency system (SS) authorized agent/ renewal of agency
26.	Delhi Parks and Gardens Society	Work Plan for financial assistance
27.	Department of Environment	Eco Club grant for schools
28.	Fire Service	Application for safety certification from school
29.	Fire Service	Online fire report
30.	Directorate of Homeopathy	Web based homeopathy consultancy
31.	Delhi Police	Grant of Old licences issued by DCP (Licensing) except Armed Licences
32.	Delhi Police	Servant Verification
33.	Delhi Police	Registration of compliant / FIR

List of services already integrated with e-SLA

1	Food & Supply Department	Issue of APL Ration Cards
2	Revenue Department	Issuance of SC/ST Certificates
3	Revenue Department	Issuance of OBC Certificates

4	Revenue Department	Issuance of Domicile Certificate
5	Revenue Department	Issuance of Income Certificate
6	Revenue Department	Issuance of Nationality certificate
7	Revenue Department	Issuance of Solvency Certificate
8	Trade & Taxes	Registration of dealers under VAT
9	NDMC	Registration of Birth
10	NDMC	Registration of Death
11	MCD	Registration of Birth
12	MCD	Registration of Death
13	Excise, Entertainment and Luxury Tax Department.	Luxury Tax Registration
14	Excise, Entertainment and Luxury Tax Department.	Registration of Cable Operators

THE SCHEDULE
(See section 3)

Sl No.	Name of service	No. of days for service Delivery after receipt of application	Department/ Organization
1	New Electricity Connection (Domestic)	Thirty five days	BSES Rajdhani Power Limited
2	New Electricity Connection (Domestic)	Thirty five days	BSES Yamuna Power Limited
3	New Electricity Connection (Domestic)	Thirty five days	North Delhi Power Limited (NDPL)
4	Registration of Eating House	Fifty five days	Delhi Police
5	Work Plan for financial Assistance	Thirty days	Delhi Park and Garden Society, Department of Environment, GNCTD
6	Grant of License to Chemist	Thirty five days	Drugs Control
7	Eco-Club Grant for Schools and Colleges	Thirty days	Department of Environment, GNCTD

8	Issuance of Ration Card (APL)	Forty five days	Food Supplies and Consumer affairs
9	Issuance of Birth Certificate	Seven days	Municipal Corporation of Delhi (MCD)
10	Issuance of Death Certificate	Seven days	Municipal Corporation of Delhi (MCD)
11	Issuance of Birth Certificate	Seven days	New Delhi Municipal Council (NDMC)
12	Issuance of Death Certificate	Seven days	New Delhi Municipal Council (NDMC)
13	Issuance of Domicile certificate	Twenty one days	Revenue
14	Issuance of Income Certificate	Twenty one days	Revenue
15	Issuance of Nationality Certificate	Twenty one days	Revenue
16	Issuance of OBC Certificate	Sixty days	Revenue
17	Issuance of SC/ ST Certificate	Sixty days	Revenue
18	Issuance of SC/ ST Certificate (Other	Sixty days	Revenue

	State)		
19	Issuance of Solvency Certificate	Twenty one days	Revenue
20	Registration under Delhi Value Added Tax (DVAT) and Central Sale Tax, Act	Fifteen days	Trade and Taxes
21	Issuance of Learner's Driving License	One day	Transport
22	Issuance of Permanent Driving License	One day	Transport
23	Renewal of Permanent Driving License	One day	Transport
24	Transfer of Ownership of Vehicle	Twenty one days	Transport
25	Issuance of Certificate of Vehicle Fitness	Fifteen days	Transport
26	Issuance of Registration Certificate of Vehicle	Twenty one days	Transport
27	Grant of Licenses as Manufacturer of Weights and Measures	Forty five days	Weights and Measures
28	Grant of Licenses as Repairer of Weights and Measures	Forty five days	Weights and Measures
29	Grant of Licenses as dealer in Weights and Measures	Forty five days	Weights and Measures

30	Renewal of Licenses as Manufacturer of Weights and Measures	Forty five days		Weights and Measures
31	Renewal of Licenses as Repairer of Weights and Measures	Forty five days		Weights and Measures
32	Renewal of Licenses as Dealer in Weights and Measures	Forty five days		Weights and Measures