

NEWS ITEMS ON CAG/ AUDIT REPORTS (03.06.2022)

1. Unique identity crisis: Govt's flip-flop over Aadhaar card usage is unfortunate; Indians need data ([financialexpress.com](https://www.financialexpress.com)) June 3, 2022

Apart from creating unnecessary confusion, the Centre's recent flip-flop over the safety of sharing Aadhaar card photocopies also exposes the deep-rooted problems in the ecosystem. A regional office of the Unique Identification Authority of India (UIDAI) had cautioned against sharing photocopies with "unlicensed private entities", in an advisory last week. It also warned against downloading e-Aadhaar on public computers, or permanently delete it from such systems. Against the backdrop of multiple instances of Aadhaar data leakage of individuals, these warnings were, without doubt, well-directed. Curiously, hours later, the Union ministry of electronics and information technology withdrew the advisory to avoid "misinterpretation." The ministry asked all Aadhaar card-holders to exercise "normal prudence" in their use of unique identity details. The Centre would do well to spell out what constitutes "normal prudence" given how ubiquitous Aadhaar has become for any requirement of proof of identity.

The Supreme Court's Puttaswamy judgment (2018) had held that private entities could not insist on Aadhaar, and it could not be made mandatory for even banking and telecom services. In practice, however, Aadhaar details have become the "preferred" (read mandatory) Know Your Customer document for a host of private- and government services. While the entity soliciting Aadhaar details is required to obtain consent from the Aadhaar-holder, but when denial of consent effectively translates into denial of service, thus, consent-seeking becomes perfunctory. This is not to say that Aadhaar should not be widely used—even as the Centre has exhorted the states to use it to expand service delivery within the framework of the law, the Aadhaar-stack use-cases hold considerable promise in the digital age. However, the Aadhaar ecosystem must not become a tool in the hands of unscrupulous elements for defrauding the State and its people.

The retracted UIDAI advisory asked Aadhaar-holders to make use of masked Aadhaar—where only the last four digits of the 12-digit Aadhaar is visible. However, there is not enough awareness among the public regarding this. There could be accessibility problems as well, especially for the technologically challenged and the poor, given it is in a password-protected, electronic form. Aadhaar, of course, can be used as proof of identity without having to involve the physical card or its photocopies. For use-cases in brick and mortar settings, point-of-sale biometric/QR-based authentication can do away with the need for photocopies. Basic KYC details of the Aadhaar-holder can be shared with the requesting entity for record-keeping. But apart from the low deployment and connectivity issues, these come with their own problems, including the possibility of stolen biometric information.

The UIDAI has not acquitted itself well with ensuring the ecosystem's security-robustness. In a recent report, the Comptroller and Auditor General of India said that the UIDAI was "neither able to derive required assurance" that the information systems of the entities involved in the authentication ecosystem—the requesting entities (REs) and the authentication service agencies (ASAs)—complied with prescribed standards, "nor did it ensure" auditing by the authorised bodies. The Centre needs to fix the security challenges to the Aadhaar ecosystem. Asking Aadhaar-holders to exercise normal prudence is just passing the buck. The least it can do is to bring in a robust personal data protection law so that data principals have some recourse if defrauded. <https://www.financialexpress.com/opinion/unique-identity-crisis-govts->

2. आधार कार्ड साझा करना जोखिमों से भरा, सुरक्षित तरीकों पर ध्यान देने की जरूरत (tv9hindi.com) June 03, 2022

आधार कार्ड का उपयोग केवल कुछ ही सरकारी एजेंसियों तक ही सीमित होना चाहिए, क्योंकिक्यों डिजिटल पहचान जारी करने के कई घातक परिणाम हो सकते हैं. अभी, लगभग हर संगठन, शैक्षणिक संस्थानों और निजी फर्मों से लेकर सरकारी विभागों तक, आधार को आईडी प्रूफ के रूप में मांगता है.

हसन एम कमाल:- मुझे कबूल करना होगा कि मैं हमेशा चिंता करता रहता हूं. मैं अपने भविष्य, अपने परिवार और अपनी मानसिक सुरक्षा को लेकर विशेष रूप से चिंतित हूं. और ऐसा बिना किसी वजह के नहीं है. मैं जहां भी देखता हूं, मैं खुद को गिद्ध रूपी डाटा से घिरा हुआ पाता हूं, जो मेरे व्यक्तिगत डाटा और मानसिक संतुलन का एक हिस्सा लुटने के लिए तैयार रहते हैं. मैं अपने बैंक ऐप पर जाता हूं और मुझे नए ऑफर के अनावश्यक विज्ञापन मिलते हैं. जिसे यदि मैं गलती टच कर दूं तो मेरे पास लोन या क्रेडिट कार्ड बेचने वाले टेलीमार्केटिंग कॉल आने लगते हैं. एक ई-

कॉमर्स ऐप की कार्ट में मैंने मैं जो किराना सामान सहेजा था (बाद में ऑर्डर करने के लिए), वे इस समाचार वेबसाइट पर भी मेरा पीछा कर रहे हैं. इस बीच, एक दूसरी ई-कॉमर्स साइट मेरे जीमेल इनबॉक्स को ईमेल से भर रही है कि कैसे मैंने मैं चार महीने पहले कार्ट की जांच नहीं की थी.

मैं तब से तनाव में हूं जब से बंगलुरु में यूआईडीएआई (UIDAI) के रीजनल ऑफिस ने भारतीयों को अपने आधार कार्ड की अनमास्क फोटोकॉपी (सारे नंबरों को प्रदर्शित करने वाले) को होटल और सिनेमा हॉल जैसे अनधिकृत संस्थाओं के साथ साझा नहीं करने की सलाह दी है, क्योंकिक्यों इससे "दुरुपयोग" की संभावना रहती है. एडवाइजरी में कहा गया है,

"किसी भी संगठन के साथ अपने आधार की फोटोकॉपी साझा न करें क्योंकिक्यों इसका दुरुपयोग किया जा सकता है. कृपया एक मास्क आधार का उपयोग करें जो आपके आधार संख्या के केवल अंतिम 4 अंक प्रदर्शित करता है.

" UIDAI की एडवाइजरी को आने में बहुत देर हो चुकी है

मेरे अनुभव के लिहाज से UIDAI की एडवाइजरी को आने में बहुत देर हो चुकी है. मैं चने की तरह अपने आधार नंबर की फोटोकॉपी हर एजेंसी को बांट रहा हूं. बैंक, म्यूचुअल फंड, स्टॉक ट्रेडर्स, मोबाइल फोन कंपनी, होटल, हवाई अड्डों पर टैक्सी सेवाएं, टैक्स फाइलिंग और रेंटल एग्रीमेंट एजेंसियों यां, गैस कंपनी, मोटर वाहन विभाग, मैरिज ब्यूरो, चुनाव आयोग, मेरा कॉलेज, मेरा विश्वविद्यालय, लगभग सभी को जिन्हें कभी मेरी पहचान सत्यापित करने की आवश्यकता होती है और वो भी पूरे 12 अंकों के साथ.

एक बार एक कूरियर वाले के साथ भी मैंने अपने आधार का स्कैन साझा किया था क्योंकिक्यों उसे लगा कि मैं कोई और हूं. रविवार को, इलेक्ट्रॉनिक्स और सूचना प्रौद्योगिकी मंत्रालय (MeitY) ने UIDAI की एडवाइजरी को वापस ले लिया और भारतीयों को "अपने UIDAI आधार नंबरों का उपयोग करने और साझा करने में सामान्य विवेक का प्रयोग करने" की सलाह दी. MeitY ने कहा कि इस एडवाइजरी को इसलिए वापस लिया जा रहा है कि क्योंकिक्यों इसकी "गलत व्याख्या" की संभावना है.

ऐसे में कुछ सवाल एकदम से उठते हैं. सबसे पहले, “सामान्य विवेक” से MeitY का क्या मतलब है? अगर इसका मतलब है, पहले आठ अंकों को छिपाना चाहिए, जैसा कि कुछ विशेषज्ञों ने बताया है, तो यूआईडीएआई की सलाह को पहले क्यों वापस लिया जाए? दूसरा, क्या “सामान्य विवेक” का मतलब लाइसेंस प्राप्त एजेंसिजें यों के साथ साझा करना है, और यदि हां, तो कोई कैसे जानेगा है कि आधार का उपयोग करने के लिए कौन सी एजेंसी या संस्था सत्यापित है? तीसरा, भले ही एडवाइजरी की “गलत व्याख्या” की जा सकती है या नहीं, हीं अगर कोई सिक्योरिटी रिस्क है, तो क्या लोगों को इसके बारे में जागरूक करने की जिम्मेदारी MeitY की नहीं है? इसका मुख्य उद्देश्य 140 करोड़ भारतीयों की डिजिटल सुरक्षा प्रदान करना होना चाहिए.

आधार में कई जोखिम हैं

प्रत्येक नागरिक यह सत्यापित नहीं कर सकता कि किस एजेंसी को आधार का उपयोग करने के लिए लाइसेंस मिला हुआ है और किसे नहीं. हीं और अगर कोई ऐसा करता भी है तो सीएजी (CAG) ने अप्रैल में संकेत दिया कि आधार प्रमाणीकरण के लिए इन लाइसेंस प्राप्त एजेंसिजें यों द्वारा उपयोग किए जाने वाले उपकरण और एप्लिकेशन “व्यक्तिगत जानकारी संग्रहीत करने में सक्षम थे... जो लोगों की गोपनीयता को खतरे में डालते हैं.” 180 पन्नों की रिपोर्ट में ऐसे उदाहरण भी मिले हैं जब एक ही बायोमेट्रिक डाटा वाले अलग-अलग व्यक्तियों को आधार जारी किया गया था. पांच साल से कम उम्र के बच्चों को उनके माता-पिता के बायोमेट्रिक के आधार पर बाल आधार जारी करना वैधानिक प्रावधानों का उल्लंघन है. पते की बात यह है कि आधार में कई जोखिम हैं, और जनता को इसके बारे में जानने का अधिकार है.

आधार सेफ्टी पर जनता का गुस्सा अपेक्षित है. इस पर जागरूकता पैदा करने के बजाय, संभावित जोखिमों को स्वीकार करने को लेकर भी अनिच्छा रही है. 2018 में ट्राई के मुखिया आरएस शर्मा ने यह दिखाने के लिए, ट्विटर पर अपना आधार नंबर साझा किया था, कि ऐसा करना सुरक्षित है, जिसके बाद कुछ यूजर्स ने उनके घर का पता, फोन नंबर और अन्य पहचान योग्य विवरणों के साथ उन्हें जवाब दिया था. विशेषज्ञों का कहना है कि शर्मा के डाटा अभी भी खतरे में हैं.

आधार का उपयोग केवल कुछ ही सरकारी एजेंसिजें यों तक ही सीमित होना चाहिए क्योंकिक्यों डिजिटल पहचान जारी करने के कई घातक परिणाम हो सकते हैं. अभी, लगभग हर संगठन, शैक्षणिक संस्थानों और निजी फर्मों से लेकर सरकारी विभागों तक, आधार को आईडी प्रूफ के रूप में मांगता है. कई मामलों में, कुछ लोगों द्वारा, दूसरे के नाम पर लोन लिए गए हैं जिनके पास संबंधित व्यक्ति का डाटा था. गलत हाथों में, व्यक्तिगत रूप से पहचान योग्य जानकारी, न केवल उस व्यक्ति के लिए खतरनाक है जिसके डाटा को चुराया गया है, बल्कि राष्ट्रीय सुरक्षा के लिए भी खतरनाक है. यह बात सभी को मालूम है कि आतंकवादी देश में फर्जी आधार कार्ड का उपयोग कर रहे हैं. <https://www.tv9hindi.com/opinion/aadhar-card-sharing-fraught-with-risks-need-to-be-given-on-secure-methods-uidai-alert-use-only-masked-aadhaar-au148-1266842.html>

3. Period of audit of AIFF's accounts extended, will now cover ousted president Praful Patel's full tenure from 2009 (timesofindia.indiatimes.com, theprint.in, news18.com, theshillongtimes.com, insidesport.in) June 2, 2022

NEW DELHI: The scope of the ongoing audit of accounts of All India Football Federation (AIFF) by the Comptroller and Auditor General (CAG) of India for alleged financial

irregularities has been expanded to cover the period from 2008-09 to 2020-21, which coincides with the tenure of the ousted president Praful Patel.

Last month, the CAG constituted a team to conduct audit of the AIFF's accounts for the last four financial years with an instruction from higher authorities to "go deep into the details".

But in what could spell more trouble for the AIFF, the period of the audit has been extended, according a memo issued to the football body by the office of the Director General of Audit here.

Patel took over as full-time AIFF president in October 2009 before being re-elected to the top post in December 2012 and 2016. He was thrown out of office by the Supreme Court on May 18 after exceeding his tenure as AIFF president.

"It is intimated that with approval of our HQ's office, the audit programme has been revised from 17.05.2022 to 20.06.2022 for the audit of financial year 2008-09 to 2020-21 in continuation of previous audit as already intimated...dated 17.05.2022," an audit memo issued to the AIFF by the office of Director General of Audit read.

"In this regard, it is requested necessary instructions may also please be issued to all the concerned officers/officials to furnish all the requisitioned information/record of mentioned time period promptly."

The Director General of Audit conducts audits in conformity with Auditing Standards issued by Comptroller and Auditor General of India.

A team of officials from the CAG had last month visited the AIFF headquarters here to look into its various documents related to the last four financial years.

Patel's third term in office was to end in December 2020 but he clung on to a SC case, which remained pending since 2017, to extend his executive committee's term while refusing to hold elections till the issue of a new constitution was settled by the top court.

This forced the SC to appoint a three-member Committee of Administrators (CoA) headed by former top court judge AR Dave to manage the affairs of the AIFF and adoption of its constitution in line with the National Sports Code and model guidelines.

Patel, a former union minister, served as acting president for one year after long-time head Priyaranjan Dasmunshi became ill in 2008. He took over as full-time president in October 2009 before being re-elected to the top post in December 2012 and 2016.

Earlier, while reacting to a report that Sports Ministry has approved an audit of the AIFF's accounts after the special cell of the CAG allegedly found financial irregularities, the federation had said it has been submitting a copy of its audited financial statements to the CAG.

"The AIFF has been submitting a copy of its audited financial statements to the CAG. In fact, audited accounts from 2017- 18 to 2020-21 have all been submitted to them," the AIFF had said in a statement.

"The AIFF did receive a letter on June 18, 2021, from CAG asking for audited finances along with a copy of documents of financial grants from MYAS and other sources for the period from 2017-18 to 2020-21.

"It was on August 30, 2021, that all relevant documents for the period from 2017-18 to 2019-20 were submitted, and subsequently, all audited financials for the period of 2020-21 were submitted on February 10, 2022," it added. <https://timesofindia.indiatimes.com/sports/football/top-stories/period-of-audit-of-aiffs-accounts-extended-will-now-cover-ousted-president-praful-patels-full-tenure-from-2009/articleshow/91966878.cms>

4. AIFF audit to cover tenure of Praful Patel ([telegraphindia.com](https://www.telegraphindia.com)) JUNE 03, 2022

The scope of the ongoing audit of accounts of the All India Football Federation (AIFF) by the Comptroller and Auditor General (CAG) of India for alleged financial irregularities has been expanded to cover the period from 2008-09 to 2020-21, which coincides with the tenure of ousted president Praful Patel.

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But in what could spell more trouble for the AIFF, the period of the audit has been extended, according to a memo issued to the football body by the office of the Director General of Audit in New Delhi.

Patel took over as full-time AIFF president in October 2009 before being re-elected to the top post in December 2012 and 2016. He was removed from office by the Supreme Court on May 18 after exceeding his tenure as AIFF president.

"It is intimated that with approval of our HQ's office, the audit programme has been revised from 17.05.2022 to 20.06.2022 for the audit of financial year 2008-09 to 2020-21 in continuation of previous audit as already intimated... dated 17.05.2022," an audit memo read.

"In this regard, it is requested necessary instructions may also please be issued to all the concerned officers/ officials to furnish all the requisitioned information/ record of mentioned time period promptly."

The Director General of Audit conducts audits in conformity with Auditing Standards issued by the CAG.

Patel's third term in office was to end in December 2020 but he cited a case in the Supreme Court, which had been pending since 2017, to extend his executive committee's term while refusing to hold elections till the issue of a new constitution was settled by the top court.

This forced the court to appoint a three-member Committee of Administrators (CoA) headed by former top court judge Anil Ramesh Dave to manage the affairs of the AIFF and adoption of its constitution in line with the National Sports Code and model guidelines. <https://www.telegraphindia.com/sports/football/aiff-audit-to-cover-tenure-of-praful-patel/cid/1868088>

5. AIFF के पूर्व अध्यक्ष प्रफुल्ल पटेल की बढ़ी मुश्किल, CAG करेगा कार्यकाल का ऑडिट (tv9hindi.com) 02 June 2022

अखिल भारतीय फुटबॉल महासंघ (All India Football Federation) के खातों पर भारत के नियंत्रक और महालेखापरीक्षक (कैग) द्वारा कथित वित्तीय अनियमितताओं के लिये चल रहे ऑडिट (हिसाब किताब की जांच) की अवधि अब बढ़ाकर 2008-09 से 2020-21 तक कर दी गयी है जिसमें बाहर किये गये अध्यक्ष प्रफुल्ल पटेल (Praful Patel) का भी कार्यकाल शामिल है. पिछले महीने कैग (CAG) ने एआईएफएफ के पिछले चार वित्तीय वर्षों के खातों का ऑडिट कराने के लिये एक टीम का गठन किया था.

लेकिन फुटबॉल संस्था को लेखापरीक्षा महानिदेशक द्वारा जारी किये गये ज्ञापन के अनुसार एआईएफएफ के लिये यह परेशानी का कारण बन सकता है क्योंकिक्यों हिसाब किताब के जांच की अवधि अब बढ़ा दी गयी है. अक्टूबर 2009 में एआईएफएफ के पूर्ण कालिक अध्यक्ष बने पटेल को फिर दिसंबर 2012 और 2016 में शीर्ष पद पर चुना गया था. लेकिन एआईएफएफ अध्यक्ष पद के तौर पर कार्यकाल बढ़ाने के बाद 18 मई को उच्चतम न्यायालय ने उन्हें बाहर कर दिया.

अखिल भारतीय फुटबॉल महासंघ के लिए बनाया गया नया संविधान

प्रशासकों की समिति (सीओए) के सदस्य एस वाई कुरैशी ने कहा था कि अखिल भारतीय फुटबॉल महासंघ (एआईएफएफ) का नवनिर्वाचित निकाय सितंबर के अंत तक अस्तित्व में आ जाएगा और उनकी समिति 15 जुलाई तक संशोधित संविधान को उच्चतम न्यायालय में पेश करेगी. उच्चतम न्यायालय ने 18 मई को एआईएफएफ के मामलों का प्रबंधन करने और राष्ट्रीय खेल संहिता और उसके दिशानिर्देशों के अनुरूप संविधान बनाने के लिए पूर्व न्यायाधीश एआर दवे की अध्यक्षता में तीन सदस्यीय सीओए नियुक्त किया था. पूर्व मुख्य चुनाव आयुक्त कुरैशी और पूर्व भारतीय फुटबॉल टीम के कप्तान भास्कर गांगुली सीओए के अन्य सदस्य हैं.

फीफा और एएफसी करेगी भारत का दौरा

फीफा और एशियाई फुटबॉल परिषद (एएफसी) की एक संयुक्त टीम उच्चतम न्यायालय के आदेश के बाद मौजूदा स्थिति को समझने के लिए भारत का दौरा करने के लिए तैयार है. कुरैशी ने कहा कि बैठक 11 जून को होगी और सीओए एआईएफएफ के नए संविधान पर चर्चा करने के लिए दोनों निकायों के प्रतिनिधियों से मिलना चाहता है. हम उन्हें आश्वस्त करना चाहते हैं कि यह समिति चुनाव प्रक्रिया में तेजी लाने में मदद करने के लिये है.

पूर्व मुख्य चुनाव आयुक्त कुरैशी और पूर्व भारतीय फुटबॉल टीम के कप्तान भास्कर गांगुली सीओए के अन्य सदस्य हैं. कुरैशी ने कहा, चुनाव प्रक्रिया पूरी होने में छह से आठ सप्ताह का समय लगेगा. फिर सितंबर के अंत तक, एक नव निर्वाचित निकाय अस्तित्व में होगी. उन्होंनेनेहों कहा, 'मेरे नेतृत्व में सीओए ने उच्चतम न्यायालय में लंबे विचार-

विमर्श के बाद संविधान का मसौदा प्रस्तुत किया है जो लंबे समय तक सार्वजनिक नहीं था.<https://www.tv9hindi.com/sports/other-sports/period-of-audit-of-aiff-accounts-extended-will-now-cover-ousted-president-praful-patels-full-tenure-from-2009-au115-1266461.html>

6. एआईएफएफ के खातों के 'ऑडिट' की अवधि बढ़ायी गयी, अब पटेल का कार्यकाल भी इसमें शामिल (navbharattimes.indiatimes.com) 02 June 2022

अखिल भारतीय फुटबॉल महासंघ (एआईएफएफ) के खातों पर भारत के नियंत्रक और महालेखापरीक्षक (कैग) द्वारा कथित वित्तीय अनियमितताओं के लिये चल रहे 'ऑडिट' (हिसाब किताब की जांच) की अवधि अब बढ़ाकर 2008-09 से 2020-21 तक कर दी गयी है जिसमें बाहर किये गये अध्यक्ष प्रफुल्ल पटेल का भी कार्यकाल शामिल है।

पिछले महीने कैग ने एआईएफएफ के पिछले चार वित्तीय वर्षों के खातों का 'ऑडिट' कराने के लिये एक टीम का गठन किया था।

लेकिन फुटबॉल संस्था को लेखापरीक्षा महानिदेशक द्वारा जारी किये गये ज्ञापन के अनुसार एआईएफएफ के लिये यह परेशानी का कारण बन सकता है क्योंकि हिसाब किताब के जांच की अवधि अब बढ़ा दी गयी है।

अक्टूबर 2009 में एआईएफएफ के पूर्ण कालिक अध्यक्ष बने पटेल को फिर दिसंबर 2012 और 2016 में शीर्ष पद पर चुना गया था। लेकिन एआईएफएफ अध्यक्ष पद के तौर पर कार्यकाल बढ़ाने के बाद 18 मई को उच्चतम न्यायालय ने उन्हें बाहर कर दिया। <https://navbharattimes.indiatimes.com/india/period-of-audit-of-aiff-accounts-extended-now-patels-tenure-also-included-in-this/articleshow/91967746.cms>

7. Staff shortage in AG offices to hit pension distribution for newly retired employees (english.mathrubhumi.com) 02 June 2022

Thrissur: The distribution of benefits to 11,000 people who retired from government service on May 31 is likely to get affected due to the shortage of staff in centre managed Accountant General (Accounts and Entitlement) or AG(AE) offices.

It is learnt that the number of employees in AG(AE)s in the state is just 46 per cent of the allocated staff. By July, it will further reduce to 38 per cent. Number of sanctioned vacancies is 1,519 while the number of employees is only 702. Since 2019, the promotions to the vacancies created by retirements of senior accounts-audit offices remain stalled.

Meanwhile, the state government had intervened to avoid the delay in determining pension due to resource constraints. Following this, temporary measures were initiated to address the issue. AG(AE)s employees retired on May 31 are directed to continue in the service. Similarly, seven officials from Thrissur and five officials from Kozhikode have been transferred to Thiruvananthapuram. Apart from this, pension revision related procedures are temporally stalled to prioritize pension determination.

Apparently, expecting raise of pension age many employees delayed application submission which was supposed be done six months ago. This in turn has constricted operations of AG(AE)s as applications are submitted now. <https://english.mathrubhumi.com/news/kerala/staff-shortage-in-ag-offices-to-hit-pension-distribution-for-newly-retired-employees-1.7570759>

8. Sikkim: SNS Labels Corruption Allegation worth of Rs 47 Lakhs against Chief Secretary – SC Gupta (northeasttoday.in) 02 June 2022

The Sikkimey Nagarik Samaj (SNS) has labelled a serious corruption allegation of worth Rs 47 lakh against Chief Secretary – SC Gupta on the basis of CAG report; demanding the prompt interference of Central Bureau of Investigation (CBI) and Enforcement Directorate (ED).

Meanwhile, the non-political organization is likely to file a complaint in State Vigilance Department on June 3; regarding the concerned matter.

Addressing a press conference, the Spokesperson and General Secretary of SNS – Passang Sherpa remarked that “the group is dedicated to improve Sikkimese society. Meanwhile, allegations of questionable financial transactions and disaster management fund manipulation involving Sikkim CS – Suresh Chandra Gupta have surfaced in the public realm. As a result, it should be brought to your attention as soon as possible so that required action can be taken.”

“Mr. Suresh Chandra Gupta, Chief Secretary to the Government of Sikkim had received a sum of Rs. 4750000/- (Rupees Forty Seven Lakhs and Fifty Thousand) from a proprietorship firm called ANALYST on five different dates. All the cheques are carefully being issued and deposited on different dates to avoid tracking of transactions under the Prevention of Money Laundering Act 2005,” – Sherpa further mentioned.

“A sum of Rs. 384400000/- (Rupees Thirty Eight Crore and Forty Four Lakhs) from the Disaster Management Fund was illegally diverted in pretext of purchasing rice, pulses, cooking oil, potatoes, and onions during Covid Pandemic, based on a notification issued by Chief Secretary Mr. Suresh Chandra Gupta himself. However, the above items were neither brought nor distributed to the public,” – shared the SNS spokesperson.

Passang Sherpa further added that “now the ball is in government’s court, and we are hopeful that they will take appropriate measures. We also want to stress that if we’re wrong, we should be imprisoned, and if it’s true, the government should suspend him.” <https://www.northeasttoday.in/2022/06/02/sikkim-sns-labels-corruption-allegation-worth-of-rs-47-lakhs-against-chief-secretary-sc-gupta/>

9. घाटे में चल रही पनकॉम को दोनों हाथों से लूट रही मैनेजमेंट ([amarujal a.com](http://amarujal.a.com)) 03 June 2022

मोहाली। पंजाब कम्युनिकेशन लिमिटेड (पनकॉम) मैनेजमेंट में तैनात आलाधिकारी पंजाब के खजाने को दोनों हाथों से लूटने का काम कर रहे हैं। अधिकारियों की लूट का असर यह हुआ कि अब मैनेजमेंट के बोर्ड ने खुद फैसला लेकर इसे बंद करने का फैसला सुना दिया। दूसरी ओर, मैनेजमेंट के फैसले ने सैकड़ों कर्मचारियों को परेशानी में ला दिया है। कंपनी ने इन्हें वीआरएस के लिए 30 जून तक आवेदन देने के लिए पत्र जारी कर दिया है। यह बात बुधवार को पीसीएल इंप्लायज यूनियन की प्रधान कुलदीप कौर और सचिव सीमा मेहता ने पत्रकारवार्ता करके बताई है।

इंप्लायज यूनियन प्रधान कुलदीप कौर ने बताया कि वर्षों से कंपनी घाटे की मार झेल रही है और मैनेजमेंट ने कभी इसे घाटे से निकालने के लिए कोई कदम नहीं उठाया गया। वहीं कैग की रिपोर्ट में हर वर्ष कंपनी की ऑडिट में लाखों रुपए का घाटा दिखाकर रिपोर्ट पंजाब सरकार को सौंपकर इसमें सुधार की बात

कही। दूसरी तरफ, पंजाब सरकार ने कंपनी को घाटे से उभारने के लिए मैनेजमेंट को हर तरह से मदद दी, परन्तु मैनेजमेंट ने सरकार की इस मदद का हमेशा दुरुपयोग करके कंपनी को घाटे में धकेलने का काम किया।

सरकार की मंजूरी बिना 2018 में चहेतों को दे डाली 24 लाख ग्रैच्युटी इंप्लायज यूनियन की प्रधान कुलदीप कौर और सचिव सीमा मेहता ने मैनेजमेंट कंपनी के आलाधिकारियों पर सरकारी फंडों के दुरुपयोग के आरोप लगाए। 2018 में मैनेजमेंट के रोल पर तैनात अधिकारी जगदीप सिंह भाटिया और रुपिंदर सिंह मैणी ने चहेतों को ग्रैच्युटी के 24 लाख इसके लिए पंजाब सरकार से किसी तरह की मंजूरी नहीं ली गई। हालांकि ग्रैच्युटी के हकदार सभी थे, परन्तु उक्त अधिकारियों ने केवल 4 कर्मचारियों को ग्रैच्युटी देकर सरकार के खजाने को चूना लगाने का काम किया। दूसरी ओर, पंजाब सरकार द्वारा 3 साल के बाद ग्रैच्युटी की रकम को 10 से बढ़ाकर 20 लाख कर दिया, जिसे 2016 से एरिअर के साथ कर्मचारियों को देने की घोषणा हुई। लेकिन 2018 में चहेतों को जारी कर चुकी ग्रैच्युटी के नाम पर बांटी गई रकम के रिकार्ड को छिपाने के लिए मैनेजमेंट के उक्त अधिकारियों ने बोर्ड की बैठक में कंपनी को घाटे में दिखाकर बंद करने का फैसला पारित करवा लिया जबकि पनकॉम में रेगुलर और कांट्रैक्ट को मिलाकर करीब 300 कर्मचारी कार्यरत है, जिन्हें वेतन देने में सरकार हर महीने 25 करोड़ रुपये अदा करती है। घाटे में चल रही कंपनी की वजह से मुलाजिमों को पर हर साल वेतन देने में पंजाब सरकार को करोड़ों रुपये का घाटा झेलना पड़ रहा है। मोहाली में पंजाब सरकार की पंजाब कम्युनिकेशन लिमिटेड में टेलीफोन एक्सचेंज के लिए पैनल बनाए जाते थे, परन्तु अभी इसमें रेलवे के लिए सिग्नल और पावरकॉम के लिए ग्रिड सिस्टम बनाए जाते हैं। <https://www.amarujala.com/punjab/mohali/management-looting-loss-making-pancom-with-both-hands-mohali-news-pkl452530276>

10. बदलाव के लिए तैयार रहें ऑडिटकर्मी: मोहंती (inextlive.com) 03 June 2022

नेशनल आडिट फेडरेशन के तीन दिवसीय राष्ट्रीय अधिवेशन का शुभारंभ राष्ट्रीय लेखा परीक्षा महासंघ के 12वें राष्ट्रीय सम्मेलन का आगाज गुरुवार को हुआ। प्रधान महालेखाकार बीके मोहंती ने दीप प्रज्वलित करके प्रोग्राम का शुभारंभ किया। सरस्वती सभागार में आयोजित प्रोग्राम में पीएजी के अलावा अमोल कुमार दास, जयशंकर कुमार, एवं अरुण कुमार ने सम्बोधित किया। उद्घाटन सत्र में शासन और जवाबदेही बढ़ाने के लिए सीएजी की भूमिकाओं और कार्यों के आधार पर उच्चिकृत करना विषय पर संगोष्ठी भी हुई। चीफ गेस्ट श्री मोहंती ने कहा कि ऑडिट कर्मियों को काम काज में आने वाले बदलाव के लिए तैयार रहना होगा। लेखा परीक्षकों के रूप में अपनी भूमिकाओं को पूरा करने के लिए खुद को तैयार करने की जरूरत पर उन्होंने कई उदाहरण भी दिये।

प्रयागराज। महासचिव जयशंकर कुमार ने कहा कि अब लेखा परीक्षा विभाग व्यवस्था में शासन और जवाबदेही सुनिश्चित करने में महत्वपूर्ण भूमिका निभा रहा है। इसलिए, लेखापरीक्षा को अपनी भूमिका को नए सिरे से परिभाषित करना होगा और नई चुनौतियों को स्वीकार करना होगा। उन्होंने ऑडिट के दायरे को बढ़ाने के लिए डीपीसी एक्ट में बदलाव, सूचना प्रौद्योगिकी ऑडिट के लिए तैयार करने की आवश्यकता और ऑडिट कर्मचारियों की स्थिति में सुधार जैसे कई सुझावों की ओर इशारा किया। मुख्य संरक्षक अरुण कुमार ने कहा कि प्रशासन और संघ दोनों को राष्ट्रहित में काम करना है। उद्घाटन सत्र में वरिष्ठ सेवानिवृत्त साथियों का अभिनंदन किया गया। दिवंगत आत्माओं की स्मृति में दो मिनट का मौन भी रखा गया।

इन मांगों पर होगी चर्चा

भारत के सीएजी का व्यापक जनादेश और कार्यक्षेत्र

कर्मचारियों की कमी

करियर में ठहराव और प्रमोशन में देरी

दीर्घकालिक योजना का कार्यान्वयन

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<https://www.inextlive.com/uttar-pradesh/allahabad/be-prepared-for-change-audit-personnel-mohanty-1654196365>

SELECTED NEWS ITEMS/ARTICLES FOR READING

11. A critical juncture: On GST reforms ([thehindu.com](https://www.thehindu.com)) UPDATED: JUNE 03, 2022

Distilling inflation's impact on GST revenues is critical before structural reforms are put on hold

On Tuesday, the Centre said it has released States' outstanding GST compensation dues of almost ₹87,000 crore. The move marks a shift in stance as just a month earlier, the Finance Ministry had signalled that States' dues worth over ₹78,000 crore, pending for the last four months of 2021-22, will be released 'as and when' adequate GST compensation cess collections accrue. By May 31, the Centre said there was about ₹25,000 crore in the GST compensation fund and forked out the balance from its own coffers to be adjusted from future GST cess levies on sin goods, such as cars. The stated intent for this changed strategy makes eminent sense — to help States manage their resources and ensure spending, particularly of the capital variety to pump-prime the economy, happens smoothly through 2022-23. States have been anxious about revenue inflows once the five-year GST compensation window expires this month. The gesture to remit dues without waiting for cess accruals will also help cool the temperature of the Centre-States' fiscal parleys, that flared up afresh after some tangential remarks from the apex court on the nature of the GST Council's recommendations.

For consumers, this could mean a further extension in the levy of GST compensation cess beyond March 2026 — by when borrowings made over the past two years to bridge shortfalls in cess collections, were to be repaid. The other important implication is that over April and May, the gap between revenues and the assured level promised to States under the GST compensation compact has narrowed to less than ₹5,000 crore a month, from over ₹19,600 crore averaged in the previous four months. The record GST collection of over ₹1.67 lakh crore in April helped, no doubt, and although May revenues have fallen 15.9% to ₹1.41 lakh crore, sustaining this two-month average could ease fiscal worries for both the Centre and the States. The Government, which had termed April revenues (for transactions in March) a reflection of a 'faster' recovery, suggested that the financial year end boosted those inflows, seeking to explain the dip in May. The elephant in the room remains ignored — high inflation, which the Government hinted could compel a pause in an impending rejig of the GST rate structure, has been a key factor for rising GST revenues (over ₹1.12 lakh crore for 11 months). Once that is acknowledged and the level of economic activity assessed minus inflation effects, the GST Council can take a more nuanced call on the next steps to reform the still-young tax system and sustain revenues. This must begin by assessing whether the GST rate restructuring should be deferred because of fears of higher inflation, or reoriented to lower inflation while broadening the tax net and easing compliance. <https://www.thehindu.com/opinion/editorial/a-critical-juncture-the-hindu-editorial-on-gst-reforms/article65488129.ece>

12. States should focus on the quality of public expenditure (livemint.com) Updated: 03 Jun 2022

States should take note of a 2009 RBI study that proposed a triple E framework to assess public expenditure quality in terms of its adequacy, effectiveness and efficiency.

Under India's Goods and Services Tax (GST) law, states were guaranteed bi-monthly compensation for any loss of revenue in the first 5 years of GST implementation from 1 July 2017. The shortfall is calculated assuming a 14% annual growth in GST collections by states over the base year of 2015-16. The 5-year period will end on 30 June and there is a growing demand from many states to extend the GST compensation mechanism beyond that. The amount to be paid from the compensation fund is obtained by levying a cess on top of the highest tax slab on luxury, demerit and sin goods. Though state governments want GST compensation extended, they are aware that the proceeds of GST cess collection will have to be used to service the debt raised in the last two financial years to meet the compensation shortfall.

Given this uncertainty over the extension of GST compensation and the possibility of it tapering off at least in the medium term, it is imperative for states to devise strategies towards prudent public expenditure management. As the share of committed expenses in the total expenditure of many bigger states is high, additional fiscal space can only be created through two routes: either by exploring avenues for enhancing both tax and non-tax revenues or by careful expenditure management. As possibilities for the first route are constrained within the federal system, the second route could be a pragmatic approach. In this context, getting expenditure priorities right and efficiently utilizing funds is of paramount importance.

The 13th Finance Commission had suggested that due weightage be given to "the need to improve the quality of public expenditure to obtain better outputs and outcomes" from fiscal transfers. An important constituent of the quality of public expenditure is reducing committed expenditures in budgets and focusing on outlays that are "future-" and "growth-oriented". This entails an assessment of the institutional arrangements relevant to the fiscal rules and budgetary procedures in states. As a first step, a system of performance budgeting was introduced to assess performance against set goals/objectives. However, this was not able to establish a clear one-to-one relationship between financial budgets and performance. Moving further in this direction, outcome budgeting was introduced in 2006-07, which also recognized that outlays do not necessarily mean outcomes. It is in this context that a framework suggested by a Reserve Bank of India (RBI) study in 2009 becomes relevant. This study proposes a "triple E framework" to assess expenditure quality, which has constituents of expenditure adequacy, effectiveness and efficiency. Expenditure adequacy is in terms of focusing on the government's primary role, effectiveness is about assessing performance, and efficiency involves an assessment of the output-input ratio.

Present patterns of public expenditure in many states are unlikely to pass the test set out by the RBI study's 'triple E' framework. As new models of welfarism have emerged, the adequacy of spends on provisioning for public goods itself is under strain. Newer and narrower lists of public goods have been the outcome of expenditure provisioning, and these are not necessarily future-oriented. The classic case of new welfarism has been the proliferation of subsidies and freebies. Increased allocations for these have often resulted in inadequate allocations for public goods, and hence, low provisioning levels. Once expenditure adequacy is undermined with expanded subsidies and freebies, the scope for assessing effectiveness and efficiency gets

narrower and is limited to expanding the coverage of such schemes. States would ultimately indulge in a distorted version of fiscal competition to expand their scope and penetration, resulting in a race to the bottom in terms of provisioning for future growth.

Even though freebies and subsidies increase private consumption and could generate growth in the short term, these reduce fiscal space in the long term. That is, the availability of budgetary room that allows state governments to provide resources for a higher growth trajectory without any threat to the sustainability of their financial position gets curtailed. This calls for a rationalization of expenditure, which includes reassessing the continued desirability of specific expenditure programmes, such as unbridled subsidy expansion. Such an approach would also help in realizing possible efficiency gains in the provision of public goods and services, and thus create fiscal space which could then aim for an expenditure mix that is more effective in promoting growth.

At this juncture, there exists a need for states to look beyond GST compensation and adopt a long-term view to manage finances. Armed with enhanced collective bargaining power, even if GST compensation gets extended beyond June, states shall only gain a short-term source of revenue. The long-term solution rests on state efforts at revenue raising, expenditure re-prioritization or rationalization and judicious borrowings. These would raise their potential growth trajectory and open up alternate channels for the creation of fiscal space.

State finance commissions (SFCs) should play a key role in this agenda. Unfortunately, in most states, state governments are either apathetic towards the institution of SFCs, or, in certain cases, poor implementers of the recommendations made. For the sake of their own finances, states must change this. <https://www.livemint.com/opinion/online-views/states-should-focus-on-the-quality-of-public-expenditure-11654186394264.html>

13. Fuel imports diktat to states, private gencos: Comply or face coal supply cuts, says Govt ([financialexpress.com](http://www.financialexpress.com)) June 3, 2022

In the latest letter to state power secretaries, state gencos as well as IPPs, the ministry further said that those state gencos and IPPs that have either placed their indents with CIL or initiated their own tender processes will be allocated domestic coal proportionately based on the likely availability.

Stepping up pressure on power producers to use imported coal, the Union ministry of power on Wednesday said domestic fuel supplies to state government-run utilities and independent power producers (IPPs) will be cut by 30% effective June 7, if they do not place their indents with Coal India (CIL) or have not already initiated their own tender process for purchase of imported coal for blending purpose.

The ministry, in letters sent to these utilities on Wednesday, added that the allocation of coal from domestic sources would be further reduced to 60% from June 15, if they continued to be non-compliant with the directive to use imported coal for 10% blending. The domestic coal, thus saved, would be allocated to those gencos/IPPs who have already commenced blending, the ministry added.

The power ministry's letter is also marked to the coal ministry, the chairman and managing director of Coal India and the Central Electricity Authority, indicating their consent to the move.

While many state governments find compliance with the Centre's directive to have a fuel mix with 10% imported coal unviable due to elevated prices of imported coal, officials from the Uttar Pradesh government said that the Centre was "indulging in arm-twisting tactics and forcing the gencos to purchase costly coal."

"If some state utilities and IPPs are unable to purchase costly imported coal, how can the Centre force them to do so? Also, if gencos are unable to import 10% coal, how is it fair to cut their domestic coal allocation by 30-40%?", a UP power department official asked.

Keen to avoid repeat of a serious power crisis, as seen a few weeks ago in many parts of the country, during the months ahead, the power ministry is making all-out efforts to boost power generation and bridge a demand-supply gap.

Earlier, in the letter dated May 28 to state-run and private power plants, the ministry said Coal India would import coal for blending on government-to-government (G2G) basis and supply to them. It also asked the gencos to suspend tenders for direct coal imports that are "under process" to "await the price discovery by Coal India."

The move followed concerns expressed by many state power utilities and IPPs over the efficacy of the pass-through mechanism announced by the government to recoup the high cost of imported coal.

In the latest letter to state power secretaries, state gencos as well as IPPs, the ministry further said that those state gencos and IPPs that have either placed their indents with CIL or initiated their own tender processes will be allocated domestic coal proportionately based on the likely availability.

Coal India was asked to import coal for blending on government-to-government (G2G) basis and supply to thermal power plants of state generators and IPPs on composite billing basis along with the domestic coal. The ministry had asked all thermal power generators to indicate their coal import requirements for blending by May 31. Since only three states — Gujarat, Madhya Pradesh and Andhra Pradesh — had complied with this by May 31, the government had decided to extend the deadline by a couple of days.

The UP government has told UP Rajya Vidyut Utpadan Nigam, the umbrella body of state-owned generators, that "after considering all aspects, it has come to the decision of not allowing either the state gencos, or the independent power producers in the state to import coal."

The UP government official quoted above added: "If we are unable to import 10% coal, we can plan to restrict production proportionately and go for planned power outages. But if 40% domestic coal is cut, it means we are being penalised for no fault of ours," he said.

Terming the Centre's directive as an attempt to put undue pressure on states, the All India Power Engineers Federation reiterated its demand that since the coal crisis is not the fault of the state power generating houses, the additional cost of coal imports should be borne by the Centre.

Shailendra Dubey, chairman, AIPEF further said that most thermal power stations in all the states are not designed for imported coal and blending imported coal will increase tube leakages in their boilers.

The power ministry recently proposed a fresh scheme to facilitate state-run electricity distribution entities (discoms) to pay up their dues to gencos, which at last count stood at a staggering Rs 1 trillion. The move follows low level of compliance with its recent directives to discoms to clear the dues and the realisation that it largely resulted from a resource crunch with the discoms.

The scheme will allow payment of financial dues by discoms in up to 48 monthly installments. It also includes a one-time relaxation wherein the amount outstanding (including principal and late payment surcharge) on the date of notification of the scheme will be frozen without further imposition of the surcharge. If the scheme works without causing further default by discoms, it will enable gencos, many of which are facing huge liquidity crunch, to continue their operations in an uninterrupted manner. <https://www.financialexpress.com/economy/fuel-imports-diktat-to-states-private-gencos-comply-or-face-coal-supply-cuts-says-govt/2546947/>

14. PCPSPS Demands Independent Probe into Coal Crisis ([newsclick.in](https://www.newsclick.in)) June 3, 2022

Coal India's blocks are being auctioned to 'less competent private promoters'.

The massive coal crisis, which has enveloped the country during summer and is likely to extend into the monsoon, has “crippled” the economy, caused “enormous economic losses” and imposed an “undue burden” on the already indebted state power utilities.

The Peoples' Commission on Public Sector and Public Services (PCPSPS) has demanded an independent probe into the coal crisis and called for corrective action. The commission, which includes eminent academics, jurists, erstwhile administrators, trade unionists and social activists, intends to have in-depth consultations with all stakeholders and people concerned with the process of policymaking and those against the government's decision to monetise, disinvest and privatise public assets/enterprises and produce several sectoral reports before coming out with a final report.

In a press release issued on Thursday, the commission demanded that the details of the “mismanagement” of Coal India (CIL) should be made public. “Coal reserves worth Rs 35,000 crore accumulated to develop new coal mines and augment the existing ones were withdrawn”, resulting in the scrapping of the development programme, the PCPSPS said.

The primary role of the CIL, according to the commission, should be both the main producer of coal on scientific lines and the premier explorer and developer of new coal inventories. “By indiscriminately auctioning CIL's coal blocks to less competent private promoters, the Centre has curtailed this role to hurt the overall public interest,” it alleged. The CIL has been “directed” to invest in the fertiliser industry thereby neglecting its primary function of meeting coal demand.”

Besides, key executives of CIL, like the CMD, have either “not been appointed or delayed for several years”. The deputation of coal mines managers and executives to Swachh Bharat Mission has “directly slowed down the development of coal mines”, the PCPSPS further said.

The Narendra Modi government has “failed” in anticipating electricity/coal demand, planning for it, arranging the logistics and ensuring that the country is self-reliant on coal supplies, the commission added.

Consequently, the CIL’s production was “stagnant around 600 million tonnes (MT) during 2018-19, 2019-20 and 2020-21. If the funds and manpower had not been diverted, production could have grown at 11%, as it was growing in 2015-16, and the CIL would be producing anywhere between 750 MT and 800 MT”, the PCPSPS claimed.

The commission mentioned that the Enforcement Directorate had probed some private Indian companies owning overseas coal mines that over-invoiced their exports to state power utilities but there has been “an enormous delay in investigating the show-cause notices issued by the Directorate of Revenue Intelligence (DRI) to the tune of about Rs 30,000 crore”.

However, there is “no scope for further delay” in an investigation, the PCPSPS, said mentioning the recent Supreme Court order staying the Bombay High Court order quashing all letters issued by DRI seeking information about “alleged Rs 29,000 crore over-invoicing by a corporate group exercising enormous influence with the government”.

Alleging that orders for coal imports benefit vested interests, the commission said: “Coal imports in April were 15.92 MT, down 21.79 MT in March”. Bloomberg reported on May 19 that the “bullishness in coal prices helped flagship firm Adani Enterprises Ltd clock a 30% jump in profit for the three months ended March—the highest in six quarters”.

“The government is giving away Coal India’s greenfield blocks to private companies. It has also failed in its responsibility of supervision of private mines to ensure that they fulfil their obligations,” the PCPSPS added.

Holding the government responsible for the crisis, the commission said that it has “unilaterally directed states to import coal without caring to take into account the technical implications of using imported coal in power plants”.

“Burning different coals without proper blending could damage the boiler and reduce its useful life. Most power plants do not have the necessary facilities for proper and scientific blending of coal within the station compound. Compounding the states’ problems of importing coal at astronomical prices, the Centre has invoked its extraordinary powers under the Electricity Act,” the PCPSPS said.

The government has “allowed” independent power producers (IPPS) to import coal and “pass on the full coal import cost” to state utilities in “deviation” of the terms of the existing power purchase agreements (PPAs). “Earlier, Centre took umbrage at states trying to renegotiate regressive PPAs signed with the IPPs in the past thus overturning its own earlier diktat to suit the interests of the IPP promoters.”

The government has neither attempted to cap the import price nor use its own bargaining power to beat them down to a reasonable level of prices, the commission said. “This is very critical in view of the fact that the private overseas coal suppliers, many of whom are also domestic companies in India, have quoted prices far in excess of the cost of production to earn windfall profits at the cost of the states.”

Insisting on centralisation of the procurement of imported coal, the PCPSPS said: “The government regulates the ports. Since all the instruments of policy are vested with the government, it has the sole responsibility for imports of coal. Independent import by several state governments from the same vendors will reduce the bargaining capacity of the various states and escalate the cost of coal.”

Calling for a “balance” between the possibility of load-shedding and pushing the financial condition of state GENCOs and DISCOMS to precarious conditions, the commission said: “The present policy would only weaken DISCOMS’ finances and benefit private companies supplying coal from overseas mines.”

Asking the Centre to “own the responsibility for the crisis without any hesitation”, the PCPSPS said: “Forcing states to import coal has encouraged the overseas coal suppliers to quote astronomical prices, implying that they would benefit by earning windfall profits at the cost of states.”

According to some estimates, coal imports would “cost” Punjab about Rs 800 crores and Haryana Rs 1,200 crore. According to a rough estimate, the “total additional cost burden on states on account of this would be in excess of Rs 24,000 crore”. “The Centre should immediately compensate states with the specific condition that the amount would be used for meeting the additional cost of coal imports. If the coal crisis is likely to continue, the amount of compensation thus due to states would be correspondingly higher,” the commission added. <https://www.newsclick.in/PCPSPS-Demands-Independent-Probe-Into-Coal-Crisis>

15. Centre’s infra projects see spike in time, cost overruns ([livemint.com](https://www.livemint.com)) June 3, 2022

Delays and cost overruns in central infrastructure projects costing ₹150 crore and above have risen sharply over the last one year, government data showed. Economists attributed the delays to covid-19 disruption and labour shortage, and cost overruns to inflation.

This comes amid attempts by the government to improve efficiencies and reduce the compliance burden in infrastructure projects through its flagship Gati Shakti programme.

Nearly 41% of all monitored projects are running with a time lag as of April, as against just 30% in the same month last year, data compiled by the ministry of statistics and programme implementation (Mospi) showed.

Overall cost overruns for projects increased to 23% from 19.6% last year. More than half of the projects in railways, petroleum, power and civil aviation are running with a time delay.

The share of railway projects facing delays has increased from 47.4% in April 2021 to 60% in April 2022. The proportion of road, transport and highways facing time overruns from its original schedule increased to 29.1% in April 2022 from 13% in April 2021. In case of civil aviation, 21 of the 24 projects are facing time delays.

Nearly 27.4% of the total central infrastructure projects as of April 2022 were facing cost overruns. Nearly half of the delayed projects are running late by 2-5 years, while 22% are delayed by more than five years, the data showed.

“The increase in time delays and cost overruns may be because of the Covid-19 disruption and the labour unavailability over the last two years. Now, with normalcy returning, it is possible that labour is back and we will be seeing faster implementation of infrastructure projects,” said Aditi Nayar, chief economist, Iera Ltd.

Madan Sabnavis, chief economist, Bank of Baroda said the time overruns could be due to delays in release of funds by the government as these are central government projects. “This was due to the continuous rebalancing of cash flows during the year with priorities changing,” said Sabnavis.

Secondly, contractors executing projects faced problems with labour which had moved back to their homes in 2020. “This could have added to time delays. Lastly, with uneven performance of various industries with problems being seen in coal, power, metals (due to prices), there would have been a tendency to go slow on these projects,” said Sabnavis.

As of April, 647 of the total 1,559 central government projects costing ₹150 crore and above were delayed viz a viz their original schedules and 107 reported additional delays compared to their completion date in the previous month. Of these 107 projects, 29 are mega projects costing ₹1,000 crore and above.

The total original cost of implementation of these 1,559 projects was ₹21.73 trillion, while their anticipated completion cost is likely to be ₹26.72 trillion, reflecting an overall cost overrun of ₹4.98 trillion, which is 23% of the original cost.

“In terms of cost overruns, the second successive year of high inflation has pushed up costs. Time overruns always expose companies to cost distortions because as projects get prolonged, they become more vulnerable to cost hikes of inputs,” said Sabnavis at Bank of Baroda.

The Mospi report attributed cost and time overruns to a slew of reasons including delay in land acquisition, state-wise lockdown due to covid-19, inadequate manpower, lack of infrastructure support and linkages, delay in arranging project financing and in finalizing detailed engineering, and changes in scope. Other reasons include delay in tendering, ordering and equipment supply, law and order problems, and contractual issues. <https://www.livemint.com/industry/infrastructure/centres-infra-projects-see-spike-in-time-cost-overruns-11654186392752.html>

16. BSNL seeks spectrum worth Rs 61,000 cr in premium 700 Mhz frequency ([business-standard.com](https://www.business-standard.com)) June 3, 2022

State-run BSNL has urged the government to allocate it spectrum worth Rs 61,000 crore in the premium 700 Mhz frequency range as well as the medium frequency band for 4G and 5G services, according to sources.

The Department of Telecom (DoT) had proposed to reserve for BSNL 10 megahertz of paired spectrum -- which means the same quantum of radiowaves for uplink and downlink -- in 600 Mhz band; 40 Mhz in 3600-3670 Mhz band; and 400 Mhz in 24 Ghz band. It had sought views of the Telecom Regulatory Authority of India (Trai) on the same.

However, BSNL in a letter to the DoT about a week back asked for allocation of 10 Mhz of spectrum in the 700 Mhz band because of lack of device ecosystem in the 600 Mhz frequency range.

Based on the base price recommended by Trai, the value of spectrum sought by BSNL in the 700 Mhz band comes to around Rs 39,000 crore.

It has also sought 70 Mhz of spectrum in 3,300 to 3670 Mhz band (the mid-band) worth Rs 22,190 crore, against the 40 Mhz proposed by DoT, as per the letter.

This mid-band is expected to play a key role in the rollout of 5G services in the country.

The 700 Mhz band is considered premium because it provides wide coverage of mobile signals and least number of telecom towers are required for setting up a network in this band compared to other frequencies allocated to the sector at present.

If the government reserves 70 Mhz of spectrum in the mid-band, then a total of 300 Mhz of spectrum will be left for players to bid for in the upcoming auction.

According to a government official, private telecom players are expected to buy 100 Mhz of spectrum in the mid-band, which can help them with high-speed 5G services, and it will be sufficient for them even if the government allocated 70 Mhz of spectrum to BSNL. https://www.business-standard.com/article/current-affairs/bsnl-seeks-spectrum-worth-rs-61-000-cr-in-premium-700-mhz-frequency-122060201222_1.html

17. Double Taxation Avoidance Agreement: A missed opportunity ([financialexpress.com](https://www.financialexpress.com)) June 2, 2022

The Supreme Court has drawn curtains on one of the controversial issues that had hit headlines a decade back when the income tax department had questioned the Andhra Pradesh High Court's (HC) ruling that quashed Rs 1,058-crore tax demand over French drugmaker Sanofi Aventis' acquisition of 90% stake in Hyderabad-based vaccine maker Shantha Biotechnics in 2009.

The revenue in an unusual move recently withdrew its appeals against the HC's 2013 ruling involving taxability of capital gains arising from the transaction involving sale of controlling interest in Shanthaby the two French companies – Merieux Alliance (MA) and Groupe Industriel Marcel Dassault (GIMD) – to Sanofi.

The appeals involved application of the Double Taxation Avoidance Agreement between India and France (DTAA) to a share-sale transaction between French companies that resulted in alienation of their participating interest in an Indian company, thus making the transaction taxable in India.

The government's decision not to pursue the litigation in the apex court has been purportedly for the reason that the issue now stands subsumed by the Taxation Laws (Amendment) Act, 2021, which was brought in to favour companies, where the assessment orders passed prior to May 28, 2012 involved capital gains arising out of indirect transfer of assets situated in India through share sale transaction happening outside India. Both the amendment and now the U-turn in the case seem to be based on total non-appreciation of the transaction involved. Even the applicability of present legal principles has been given a go-by while deciding to withdraw the case from the top court. On the contrary, it was a fit case that deserved to be contested on merits.

BRIEF BACKGROUND

While MA took the decision to invest in Shantha by purchasing its 80% shares in 2006, it incorporated a subsidiary ShanH in France for the purpose. Thereafter, another French firm GIMD acquired 20% in ShanH. Both MA and GIMD exercised complete control over ShanH.

In 2009, MA and GIMD sold their entire shareholding in ShanH to Sanofi Pasteur S.A. A year after, the Indian tax authorities resorted to the DTAA to tax capital gains on such indirect transfer of shares to Sanofi.

THE LITIGATION

The two French holding companies resisted the jurisdiction of the Indian authorities to tax the capital gains on the grounds that the transaction that involved transfer of shares held by them in their French subsidiary (ShanH) to Sanofi had nothing to do with the shares of Shantha, the Indian company.

However, the revenue countered their stand, saying that ShanH had no independent existence and was wholly-controlled by these two French companies, and as a result it ought to be ignored. Thus, the sale of shares of the subsidiary by these holding companies would amount to transfer of their controlling interest in the Indian company and this transaction attracted capital gains tax in India as per the DTAA.

The Revenue had justified its levy by citing a catena of the SC judgments including the Vodafone case and also the Bombay High Court judgment that has given the roadmap/circumstances in which the ownership of the shares in an Indian entity by a foreign subsidiary should be disregarded and how the real ownership should be traced to the foreign parent/holding company.

Affirming the view taken by the non-resident assessee, the HC in February 2013 held that Indian tax authorities had no jurisdiction to tax. "There is no material to conclude that there is a design or stratagem to avoid tax... The capital gain arising as a consequence of the transaction in issue is chargeable to tax; and the resultant tax is allocated to France (not to India) under DTAA," the HC had ruled.

The taxman then appealed against the HC's judgment by asking the top court to consider whether the ownership of the shares in the Indian firm by the French subsidiary should be disregarded and that the French holding companies should be considered as the real owners of Shantha Biotech shares as it would represent their participating interest in the Indian Company in terms of Article 14(5) of the DTTA. If the answer is in affirmative, then the capital gains arising from the transaction would be taxable in India, the tax authorities had reiterated.

DECISION TO WITHDRAW

However, the Indian tax authorities in their wisdom decided to withdraw the appeals by citing the 2021 Amendment, which sought to nullify the effect of the amendments made to the Income Tax Act 1961 by the Finance Act 2012, which was notified on May 28, 2012. This retrospective effect of the 2012 Act was to overturn the Vodafone judgment where the Supreme Court has held that the Income Tax Act cannot be extended to cover indirect transfer of capital assets situated in India.

The Finance Act 2012 enacts clarificatory retrospective amendment to reinstate the legislative intent in respect of scope and applicability of various provisions including Section 9 which envisages levy of tax on the gains made from indirect transfer of assets.

VODAFONE JUDGEMENT AND ITS RAMIFICATIONS

While deciding to withdraw the appeals, the Revenue has overlooked a part of the Vodafone judgment where the Supreme Court has clearly dealt with the aspect of parent/holding and subsidiary companies. After recognising the fundamental rule that parent and subsidiary companies are two independent and distinct entities, the SC had gone to elaborate on the principle of lifting the corporate veil, the doctrine of substance over form, the concept of beneficial ownership or when the concept of alter ego arises, etc.

The SC held that if a subsidiary becomes fully subordinate to the holding company with the consequence that the subsidiary is no more than a puppet, then the subsidiary cannot be regarded as an independent entity. In these circumstances, the control over the subsidiary company may be so complete that it is its alter ego. If by abuse of organization form/legal form and without reasonable business purpose, the parent company makes an indirect transfer that results in tax avoidance or avoidance of withholding tax, then in such an event the Revenue may disregard the form of the arrangement or the impugned action through use of Non-Resident holding company, re-characterize the equity transfer according to its economic substance and impose the tax on the actual controlling Non-resident enterprise. Thus, whether a transaction is used principally as a colourable device for the distribution of earnings, profits and gains, is determined by a review of all the facts and circumstances surrounding the transaction.

Further, in a case where the Revenue finds that in a holding structure an entity which has no commercial/business substance has been interposed only to avoid tax, then in such cases applying the test of fiscal nullity would be open to the Revenue or the court to discard such inter-positioning of that entity. The impugned transaction must be “looked at” to ascertain its true legal nature. The onus will be on the Revenue to identify the scheme and its dominant purpose.

MISSED OPPORTUNITY

The decision of the Revenue to withdraw the appeals comes as a surprise at this juncture.

Armed with the SC ruling, the revenue had the opportunity to establish with the support of the transaction documents and the surrounding circumstances to prove that ShantaH, which held the shares in the Indian company, had no commercial/business substance and had been just interposed to avoid tax and the parent holding companies were the real owners.

With the withdrawal of the appeal, the Revenue has lost a fair chance to substantiate its tax claim in the Sanofi case, a treaty issue, which required application of well settled principles to the facts and circumstances of the case as emanating from the transactional documents. It was a treaty case and not a case of applying retrospective amendments to the transaction. The law as existed prior to the amendments and the principles of law elaborated in the Vodafone case would have sufficed to substantiate the Revenue’s case.

The principles of law laid down by the Supreme Court have been brushed aside by mechanically applying the 2021 Amendment without realising the merits involved in the appeals.

What seems to have guided the revenue is its unusual eagerness to bring in tax certainty at this juncture and to improve the FDI climate. Instead, much more certainty would have emerged had the Revenue stood by its stand and contested the appeals, which would have settled the law once for all.

The Revenue has let go off an excellent opportunity to establish its jurisdiction to tax the transaction in terms of Article 14(5) of the DTAA between India and France. <https://www.financialexpress.com/opinion/double-taxation-avoidance-agreement-a-missed-opportunity/2546514/>