

VI. Bhutan Power Corporation Limited

Apart from the statutory audit being conducted by a firm of Chartered Accountants empanelled with the Royal Audit Authority the RAA also conduct propriety audit.

The Royal Audit Authority during the year had issued 7 inspection reports of agencies under the Bhutan Power Corporation. The Corporation during the year 2004 was administered and managed by the following:

Sl.No	Name of official	Designation
1.	Lyonpo Yeshey Zimba	Chairman
2.	Chewang Rinzin	Managing Director
3.	Sonam Tobjey	Senior Manager, Finance & Accounts.

The following table exhibits the summary of the findings in a consolidated form:

Table 1.48 showing summary of the observation by category code and the amount involved.

Sl.No	Observations in brief	Amount (Nu. Million)	%	Category code
1.	Embezzlement of cash	0.500	13.41	9
2.	Outstanding energy charges	0.141	3.78	2
3.	Non collection of revenue	0.045	1.21	2
4.	Inadmissible Payment	0.031	0.83	8
	Total	0.717	100.00	

Major findings:

1. Outstanding energy charges - Nu. 0.141 million

On verification of the consumer ledgers of ESD, Samtse it revealed a total outstanding of Nu. 0.141 million on account of sale of electrical energy charges. No actions like disconnecting the electricity lines and imposition of surcharges for the number of months delayed were taken.

Auditee's response: *The management stated that the major portions of the unpaid bills are from factories. Agreements have been drawn for installment payment. The remaining balance is in the process of realizing.*

Who is accountable?: *Singye Dorji, Manager & Tashi Wangdi, Supervisor are held accountable to deposit the amount with 16% Commercial Interest p.a. into Audit Recoveries Account and legal action proceeded where needed be intimated to the RAA .*

2. Embezzlement of cash -Nu. 0.500 million

The ESD, BPC, Trashigang had shown the booking of Nu. 0.550 million towards the payment of materials supplied by the Stores Unit, Phuntsholing during the month of September 2001. However, on verification of the relevant documents, it was found that only Nu. 0.050 million was remitted towards purchase of ACSR conductor and the balance amount of Nu 0.500 million was found to be embezzled by the accountant by manipulating figures in the books of accounts.

Auditee's response: *"Bhutan Power Corporation had lodged case No. BPC/HRA/HR-13/2004/1156 dated June 09, 2004 with the District Court at Trashigang implicating its former accountant, Mr. Biren Thapa in connection with misappropriation of the Corporation funds amounting to Nu. 500,500.00 and subsequently obstructing justice with concealment/ destruction of*

evidences related to the case.

The trial took place from June 29, 2004 to August 20, 2004 and the district court found the accused guilty of above charges and sentenced him to seven years of prison term and repayment of Nu. 500,500.00 to the corporation. However, when the accused appealed to the High Court on 4th Oct, 2004, the High Court on 6th Oct, 2004 issued the verdict by overturning the decision of the lower court and dismissed the case without any hearings on the following grounds:

- i) There is no formal Charge Sheet by the Court of Law, required as per section 187.1 of the CCPC.*
- ii) There is no proof beyond reasonable doubt, required as per section 96.2 of the CCPC.*
- iii) Hence the case is set aside as per provision of section 156 of the CCPC and*
- iv) Dismissed subsequent to the provisions of the section 110 (b) of the CCPC.*

Though the proceedings of the lower court had, however, proven beyond reasonable doubt the following elements of the case:

- a) The accused had violated an existing statute (provisions of the penal code) and the Royal Government of Bhutan's Financial Manual (1988).*
- b) The accused had the criminal intent that can be inferred from his violation of the statute and should be entirely held responsible for the natural and the provable consequences of his acts. The misappropriation of funds especially in the capacity of an accountant whose fiduciary duty is to be the honest custodian of the organization's funds, beyond reasonable doubt the intents of the accused.*
- c) The accused also has the full capacity not only to have the intent but also to commit the crime.*
- d) On the question of due process, the case has gone through an exhaustive trial proceeding at the lower court but is dismissed on a procedural technicality by the High Court. In this case, the lower court has carried out extensive fact finding with discoveries and depositions and granted a fair hearing to the accused and hence met the due process requirement.*

The matter was referred to the Cabinet Secretary to place the case before the CCM (vide letter no. 5/BPC/HRA/MD/2004/429 dated November 19, 2004) with request to grant permission to seek the legal advice of the Department of Legal Affairs as the corporation neither has a legal division nor the legal expertise to deal with such cases. The Department of Legal Affairs is the official prosecutor for the Government.

The request for submitting the case to CCM was approved by Hon'ble Tengye Lyonpo, Chairman of Bhutan Power Corporation. BPC has also taken the approval for Department of Legal Affairs to prosecute the case on BPC's behalf. The matter has now been referred to the Department of

Legal Affairs by the Cabinet Secretary vide letter no. COM/15/04/427 date 06 November 2004, however, BPC has not heard anything on this matter as yet.

Who is accountable?: *Until such time the RAA is intimated of the decisions of the BPC, HQ Biren Thapa, Accountant and Khandu Dorji, Sr. Manager are held accountable for making good the losses and other related penalties under the law.*

3. Inadmissible payment - Nu. 0.031 million

The ESD, BPC, Trashigang had made inadmissible payment of Nu. 0.031 million to officials and staff towards Transfer of TA claims.

Auditee's response: *The management submitted that such lapses had occurred due to ignorance of rule.*

Who is accountable?: *Khandu Dorji, Sr. Manager, ESD, BPC, Trashigang is held accountable to deposit the same to Audit Recoveries Account with 16 % Commercial Interest p.a.*

4. Non collection of revenue - Nu. 0.045 million

The ESD, BPC, Trashigang had revenues amounting to Nu. 0.045 million yet to be collected by various sub- divisions.

Auditee's response: *The management stated that the outstanding amount lying uncollected could attribute to the huge number of rural consumers, who are not able to travel long distances to clear their bills. However measures such as disconnection for non payment of bills are instituted. The management submitted that the amount of Nu. 0.494 million have been collected by various sub divisions.*

Who is accountable?: *Khandu Dorji, Sr. Manager, ESD, BPC, Trashigang is held accountable to deposit the same to Audit Recoveries Account with 16 % Commercial Interest p.a.*