

**TWELFTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2006-2008)**

**SEVENTY SEVENTH REPORT**

(Presented on 17th December, 2008)



**SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2008**

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**On**

**Action taken by Government on the Recommendations  
contained in the Hundred and Twenty First Report of the Committee  
on Public Accounts (2001)**

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COMMITTEE ON PUBLIC ACCOUNTS (2006-2008)

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## INTRODUCTION

I, the Chairman, Committee on Public Accounts having been authorised by the Committee to present this Report on their behalf present the 77th Report on Action taken by Government on the Recommendations contained in the 121st Report of the Committee on Public Accounts (2001).

The Committee considered and finalised this Report at the meeting held on 11th December, 2008.

Thiruvananthapuram,  
17th December, 2008.

ARYADAN MUHAMMED,  
*Chairman,*  
*Committee on Public Accounts.*

## **REPORT**

This Report deals with the Action Taken by Government on the recommendations contained in the 121st Report of the Committee on Public Accounts (2001).

The Hundred and Twenty First Report of the Committee on Public Accounts (2001) was presented to the House on 2nd March 2001 and it contained 11 recommendations relating to Power Department. Government were addressed to furnish the Statements of Action Taken on the recommendations, contained in the Report on 30th March 2001. The final replies were received on 31-10-2006.

The Committee examined the statements at its meetings held on 24-5-2005 and 14-5-2008.

The Committee was not satisfied with the Action Taken by Government on recommendation Nos. 1, 4 and 7 (Para Nos. 27, 30 and 33) and decided to pursue them further. Such recommendations, replies furnished thereon and the further recommendations of the Committee are included in Chapter I of this Report.

The Committee decided not to pursue further the remaining recommendations, in the light of the replies furnished by Government. Such recommendations of the Committee and action taken by Government are incorporated in Chapter II of this Report.

## CHAPTER I

**Recommendations in respect of which action taken by Government  
are not satisfactory and which require reiteration**

## POWER DEPARTMENT

**Recommendation***(Sl. No. 1 Para No. 27)*

1.1 The Committee noticed that there has been no improvement in the clearance of arrears of duty, surcharge, penal interest on duty and surcharge from various licensees and hope that the Government would take necessary steps to speed up the progress in settling the accounts in respect of duty and surcharge. The Committee underline the need for ensuring more transparency and clarity regarding the maintenance of accounts of duty and surcharge by K.S.E.B. and Chief Electrical Inspectorate. The Committee find that the reasons for discrepancy between the figures maintained by K.S.E.B. and Electrical Inspectorate is the lapse in furnishing the accounts of collection and remittance in time. The Committee recommend that strict instruction should be given to K.S.E.B. and Chief Electrical Inspectorate to maintain the accounts of arrears in order to avoid such discrepancies. The Committee urge that the discrepancy noticed in the figures should be cleared urgently by effecting proper reconciliation, if this has not been done so far.

**Action Taken**

1.2 The discrepancy in the accounts of Chief Electrical Inspector and Kerala State Electricity Board mainly relates to that under section 3 (i) duty. The Kerala State Electricity Board has informed that this is mainly due to the difference in the interpretation regarding duty payable on imported power and power sold outside the State. The issue is being resolved in the light of Supreme Court judgement dated 22-4-2002 in consultation with Law Department.

**Further Recommendation**

1.3 The Committee decides to enquire the present position of the issue-discrepancy in the accounts of Chief Electrical Inspectorate and K.S.E.B.

**Recommendation***(Sl. No. 4 Para No. 30)*

1.4 The Committee have come across some specific cases of total negligence and lapses in the maintenance of books of accounts of electricity duty and surcharge where even the Department had completed the reconciliation

of accounts upto 1998-99 without rectifying the differences noticed in the figures upto 1995-96. Criticising the Chief Electrical Inspector for not making any attempt to bring an order out of the chaos, regarding the finalisation of reconciliation of figures the Committee recommend that the reconciliation of figures maintained by K.S.E.B. and Chief Electrical Inspectorate for the past years should be completed within six months and the matter should be reported to the Committee.

#### **Action Taken**

1.5 In G. O. (Rt.) 147/2000/PD. dated 8-6-2000 Government had directed Kerala State Electricity Board to submit the monthly/quarterly returns as per Kerala Electricity Duty Act and the Chief Electrical Inspector has reported that action is in progress to conduct the reconciliation.

#### **Further Recommendation**

1.6 The Committee decides to enquire whether reconciliation of accounts had been completed or not.

#### **Recommendation**

*(Sl. No. 7 Para No. 33)*

1.7 The Committee note that the Kerala Electricity Duty (Amendment) Act, 1977 does not contain provision for waiving penal interest on defaulted payments due from EHT/HT consumers including licensees. The Committee opine that proposal for waiving penal interest is contrary to the clause of penal interest in the Act and so also, the proposal failed to substantiate with appropriate provisions. The Committee recommend that a final decision in this regard should not be arrived at until the advice of Law Department is obtained. The Committee further recommend that steps should be taken to amend ambiguous provisions as well as loopholes in the Act so as to avoid such instances in future.

#### **Action Taken**

1.8 A draft amendment proposal of Kerala Electricity Duty Act, 1963 is under consideration of Government.

#### **Further Recommendation**

1.9 The Committee wants to know whether amendments had been made in the Kerala Electricity Duty Act, 1963 as stated in the reply.

## CHAPTER II

**Recommendations in respect of which the Committee do not desire to pursue Action in the light of the replies furnished by Government**

## POWER DEPARTMENT

**Recommendation**

*(Sl. No. 2 Para No. 28)*

2.1 The Committee wish to point out that granting exemption from the payment of dues towards Electricity duty with retrospective effect is irregular when there was no provision for the purpose in the Kerala Electricity Duty Act and Rules. Having been cited a Supreme Court decision striking down retrospective exemption in a tax case delivered in 1986, the Committee recommend that necessary amendments to the Kerala Electricity Duty Act should be made immediately in consultation with the Law Department to avoid difficulties and confusion in granting exemption with retrospective effect.

**Action Taken**

2.2 A draft amendment proposal of Kerala Electricity Duty Act, 1963 is under consideration of Government.

**Recommendation**

*(Sl. No. 3 Para No. 29)*

2.3 The Committee cannot find any justification for the action of the K.S.E.B. in prolonging the remittance of arrears accumulated during several years in respect of duty and surcharge due to Government periodically which was being collected on monthly basis from consumers. The Committee urge that Government should consider the aspect of providing enough budgetary support of funds to Board against the conversion of dues as loans to Board. Therefore, the Committee recommend that Government should take a final decision in this regard without any delay for the periodical remittance of the collections due to Government.

**Action Taken**

2.4 As on 31-3-2002, an amount of Rs. 579.33 crores was due to be paid to Government by way of electricity duty. At the same time, an amount of Rs. 2809.69 crores was to be paid by Government to Kerala State Electricity Board by way of subsidy. As per G.O. (Ms.) No. 25/02/PD. dated 9-10-2002, Government have ordered to net off the arrears payable to Government by way

of duty, interest, guarantee commission etc. with the dues payable by Government as on 31-3-2002.

**Recommendation**

*(Sl. No. 5 Para No. 31)*

2.5 The Committee notice that there was inordinate delay on the part of Government in issuing orders specifying the amount of duty, converted into interest free loan, as well as the amount of penal interest waived. The Committee feel that had the Power Department issued a specific order stating the amount so converted upto the end of March 1989 as interest free loan to Board, and the amount of penal interest to be waived, the objection raised by audit could have been avoided. The Committee urge that the Power Department should have shown a greater sense of responsibility and seriousness in this regard.

**Action Taken**

2.6 As per the direction by the Government the Kerala State Electricity Board has contacted the Office of the Accountant General for collecting the details of the adjustments if any made in the books of accounts. The Accountant General (A&E), Kerala, Thiruvananthapuram clarified that no account adjustment has been made in that office for converting the electricity duty for the period upto 31-3-1989 as interest free loan. AG has also intimated that in the comments of AG on the accounts of the Board for 1991-92, it was mentioned that due to the delay on the part of Kerala State Electricity Board to reconcile the difference in figures of Kerala State Electricity Board and Electrical Inspectorate, the direction contained in G.O. (Ms.) No. 17/90/PD. dated 25-7-1990 could not be complied with so far. The KSE Board has also informed Government that as per the Board's accounts all outstanding electricity duty payable to Government upto 31-3-2002 has been included in the netting off proposal and duty payable for the period after 31-3-2002 till 31-3-2004 has been paid by the Board.

2.7 The proposal for netting off is under consideration of Government.

**Recommendation**

*(Sl. No. 6 Para No. 32)*

2.8 The Committee note that the K.S.E.B. had remitted Rs. 1,740.88 lakhs only to Government out of Rs. 3,962.70 lakhs collected from the total amount of Rs. 6,515.77 lakh due to Government upto 1995-96 from High Tension and Extra High Tension Consumers. The Committee record their displeasure over the non-remittance of the surcharge and desire that Government should issue strict

instructions to K.S.E.B. to maintain the accounts correctly and also to effect reconciliation promptly so that the present state of confusion in accounts kept by the Board could be avoided.

**Action Taken**

2.9 As per G. O. (Ms.) No. 25/02/PD. dated 9-10-2002, Government have ordered to net off the arrears payable to Government by way of duty, interest, guarantee commission etc. with the dues payable by Government as on 31-3-2002.

**Recommendation**

*(Sl. No. 8 Para No.34)*

2.10 The Committee note that the Tata Tea Limited, had not been remitting the duty in respect of energy consumed as licensee from 1992 onwards on the ground that they were entitled to exemption from payment of duty since their Mattupetty packing Unit being a newly established export oriented industry. The Committee understand that no exemption under section 11 of Electricity Act was obtained by Licensee from Government for extending the concessions allowed to the new industrial units. Therefore, the Committee opine that unless the Tata Tea Limited have applied for the provision or concession or obtained a favourable decision from Government, the Department was bound to collect the duty and surcharge from them as per Electricity Act.

**Action Taken**

2.11 As per G.O.(Rt.)No. 405/04/PD. dated 7-9-2004, Government have exempted to the two units of M/s TATA TEA Limited viz. Madupetty Packetting Centre and Madupetty CTC factory from payment of Electricity Duty for the periods from 8/92 to 3/97 and 4/93 to 3/98 respectively. From 4/97 and 4/98 Madupetty Packetting Centre and Madupetty CTC factory are remitting duty. Copy of G.O. (Rt.) No. 405/04/PD. dated 7-9-2004 is enclosed as Appendix-II.

**Recommendation**

*(Sl. No. 9 Para No. 35)*

2.12 In view of the failure of the Power Department to make available a copy of Government order issued during 1993 granting exemption from payment of duty, the Committee express their inability to make any comment on the

matter. The Committee desire that a copy of the Government order together with a detailed note on the present position in this regard should be made available to the Committee.

#### **Action Taken**

2.13 A copy of G.O.(Ms.)34/93/PD. dated 17-9-1993 is enclosed as Appendix III.

2.14 As per this Order, Electricity duty concession will be extended to the then existing Industrial Units which have undergone expansion/modernisation/diversification, subject to the condition that such expansion/modernization/diversification should be of a substantial nature i.e. involving not less than 25% addition to existing capital assets excluding land and building. The benefit will be available for a period of 5 years to all eligible industrial units from the date of commercial production and the scheme will be in operation for 5 years, from the date of the order i.e. 5 years from 17-9-1993.

2.15 As per G.O. (Ms.) 14/95/PD. dated 21-8-1995 Government had fixed a cut off date viz. 16-12-1998 for applying for this concession.

#### **Recommendation**

*(Sl. No. 10 Para No. 36)*

2.16 The Committee observe that even though Government had allowed maximum line loss of 8% the line loss allowed to the licensee varied from 8.04% to 38.55% and the excess over 8% from the period 1991-92 to 1995-96 resulted in short remittance of duty amounting to Rs. 22.77 lakhs. The Committee notice that the licensee filed a petition pleading for such an exemption. The Committee recommend that the duty due to Government be fixed after conducting a review and the amount so fixed should be realised from the Company. The Committee may also be informed of the further development of the realisation of dues from the Tata Tea Limited and the decision of the Court in this regard.

#### **Action Taken**

2.17 M/s Tata Tea Ltd. filed a petition for giving exemption in the case of line loss. After examining all the aspects Government have fixed the line loss as 13.75%. M/s TATA Tea Ltd. has filed an OP No. 34019/02 before Hon'ble High Court. Government have already filed Statement of Facts in the above OP. The Company has remitted 50% of the demand as per the direction of Court.

**Recommendation**

*(Sl. No. 11 Para No. 37)*

2.18 The Committee note that the accounts in respect of Cochin Port Trust has not been finalised or settled since its inception in 1964. Expressing concern over the unsettled accounts the Committee observe that there is no need to allow concession to the firm in remitting the prescribed Electricity duty as the operation of law demands equal application. The Committee recommend that steps should be taken to sort out the issue so as to realise the amount due to Government.

**Action Taken**

2.19 Dues to Government from Cochin Port Trust under Section 3 and 4 duty and penal interest have been collected and the accounts settled.

Thiruvananthapuram,  
17th December, 2008.

ARYADAN MUHAMMED,  
*Chairman,*  
*Committee on Public Accounts.*

## APPENDIX I

**Summary of Main Conclusions/Recommendations**

<i>Sl. No.</i>	<i>Para No.</i>	<i>Department concerned</i>	<i>Conclusions/Recommendations</i>
1	1.3	Power Department	The Committee decides to enquire the present position of the issue-discrepancy in the accounts of Chief Electrical Inspectorate and K.S.E.B.
2	1.6	„	The Committee decides to enquire whether reconciliation of accounts had been completed or not.
3	1.9	„	The Committee wants to know whether amendments had been made in the Kerala Electricity Duty Act, 1963 as stated in the reply.

## Appendix II

## GOVERNMENT OF KERALA

**Abstract**

POWER DEPARTMENT—M/s TATA TEA LIMITED, MADUPETTY PACKETING CENTRE AND  
MADUPETTY CTC FACTORY—EXEMPTION FROM PAYMENT OF ELECTRICITY DUTY—  
SANCTIONED—ORDERS ISSUED

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 POWER (C) DEPARTMENT
 

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G. O. (Rt.) No. 405/2004/PD. *Dated, Thiruvananthapuram, 7th September, 2004.*

- Read:*—1. G. O. (Ms.) No. 71/90/ID. dated 21-5-1990.  
2. G. O. Lr. (Ms.) No. 14/95/PD. dated 21-8-1995.  
3. Representation dated 11-7-1997 from M/s. Tata Tea Ltd.  
4. Correspondence resting with letter No. K1-25274/01/CEI, dated 10-6-2004 from Chief Electrical Inspector.

**ORDER**

In the Government Order read as 1st paper above, Government have issued orders granting certain incentives to Industrial units coming within the purview of the said Government Order and subject to the conditions prescribed therein. One among them was exemption from payment of electricity duty for a period of 5 years from the date of Commercial production. As per the Government Order read as 2nd paper above, the cut off date for applying for electricity duty concession was fixed on 30-9-1995.

2. M/s. Tata Tea Ltd. has requested to grant exemption from Electricity Duty to the Packeting Centre at Madupetty and CTC Factory which started Commercial production during 1992 and 1993 respectively as contemplated in the above orders.

3. The Chief Electrical Inspector has reported that the two units of Tata Tea Ltd., viz. Madupetty Packeting Centre and Madupetty CTC factory have availed duty exemption for the period from 8/92 to 3/97 and from 4/93 to 3/98 respectively; the total amount of duty availed by the units are Rs. 1,04,878 and Rs. 4,77,875 respectively.

4. Government have examined the matter in detail and are pleased to exempt the two units of M/s. Tata Tea Ltd. Viz. Madupetty Packeting Centre and Madupetty CTC factory from the payment of Electricity Duty from 8/92 to 3/97 and from 4/93 to 3/98 respectively.

By order of the Governor,

R. CHITHRASENAN NAIR,  
*Under Secretary to Government.*

To

The Secretary, Kerala State Electricity Board, Thiruvananthapuram.  
The Chief Electrical Inspector, Thiruvananthapuram.  
M/s Tata Tea Ltd; [Viz. Mudupetty Centre and Madupetty CTC factory]  
Munnar workshop, Munnar P. O., 685 612.  
The Accountant General (Audit/A&E), Kerala, Thiruvananthapuram. (This issues with the concurrence of Finance Department).  
Finance Department (vide their U.O. No. 67659/PUA4/04/Fin. dated 13-7-2004).  
Industries (J) Department.  
Stock file/Office copy.

## Appendix III

## GOVERNMENT OF KERALA

**Abstract**

POWER DEPARTMENT—EXEMPTION FROM PAYMENT OF ELECTRICITY DUTY TO INDUSTRIES  
FOR SUBSTANTIAL EXPANSION/DIVERSIFICATION/MODERNISATION—ORDERS ISSUED

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POWER (A) DEPARTMENT

G. O. (Ms.) No. 34/93/PD. *Dated, Thiruvananthapuram, 17th September, 1993.*

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- Read:—*1. G. O. (Ms.) No. 4/92/PD. dated 6-2-1992.  
2. G. O. (Ms.) No. 5/93/PD. dated 6-2-1993.  
3. Letter No. 25-2-1993 from M/s. MRF Limited, Kottayam.  
4. G.O. (Rt.) 66/93/PD. dated 13-4-1993.

## ORDER

In the Government Order read as first and second papers above Industrial Units were allowed concessional electricity tariff and electricity duty as a measure of incentive to Industries in the State.

2. Government have received representations from various Industrial Units to grant exemption from electricity duty for existing industrial units which have undergone substantial expansion/modernization/diversification also.

3. Government have examined the matter in detail and are pleased to issue the following orders :

Electricity duty concession will be extended to existing Industrial units which have undergone expansion/modernisation/diversification, subject to the condition that such expansion/modernization/diversification should be of a substantial nature i.e. involving not less than 25% addition to existing capital assets excluding land and building. This order will apply only to electricity consumed by new plant and machinery. This concession will be available for a period of 5 years to all eligible industrial units from the date of starting commercial production and the scheme will be in operation for 5 years from the date of this order.

4. Eligibility for electricity duty concession will be certified by the Chief Electrical Inspector.

By order of the Governor,

ARUN KUMAR,  
*Commissioner and Secretary to Government.*

To

The Chief Electrical Inspector, Thiruvananthapuram.  
The Chairman, Kerala State Electricity Board, Thiruvananthapuram.  
The Secretary, Kerala State Electricity Board, Thiruvananthapuram.  
The Accountant General (Audit/A&E), Kerala, Thiruvananthapuram.  
(This order issues with the concurrence of Finance Department)  
The General Manager, MRF Limited, P. B. No.2, Kottayam.  
The Director of Industries and Commerce.  
The Managing Director, Kerala State Industrial Development Corporation.  
The Managing Director, Kerala Financial Corporation.  
The Finance Department (vide U.O. No. 2810/Ind.& PWA3/93/Fin.  
dated 1-7-1993).  
The General Administration (SC) Department.  
The Industries (J) Department.  
The Power (B)/(PS) Department.

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