

**HUNDRED AND EIGHTY-THIRD
REPORT
PUBLIC ACCOUNTS COMMITTEE
(1983-84)**

(SEVENTH LOK SABHA)

**CHITTARANJAN LOCOMOTIVE WORKS
(SURI TRANSMISSION AND REVERSING
GEAR BOXES FOR DIESEL SHUNTERS)**

**MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

[Action Taken on 102nd Report (Seventh Lok Sabha)]



Presented to Lok Sabha on

Laid in Rajya Sabha on

**LOK SABHA SECRETARIAT
NEW DELHI**

February 1984/Phalguna 1905(3)

Price : Rs. 2.50

Corrigenda to Hundred and Eighty-Third Report
of Public Accounts Committee (7th Lok Sabha)

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(1983-84)

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INTRODUCTION

1. the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this *183rd Report* on action taken by Government on the recommendations of the Public Accounts Committee contained in their 102nd Report (Seventh Lok Sabha) relating to Chittaranjan Locomotive Works—Suri Transmission and Reversing Gear Boxes for diesel shunters.

2. In their 102nd Report, the Public Accounts Committee (1981-82) had observed that the firm (M/s. Kirloskar Pneumatic Co. Ltd., Pune) had taken undue advantage of their position as monopoly indigenous supplier of Suri Transmission (ST) and Reversing Gear Box (RGB) equipment and had been dictating their terms to the Railways in the matter of price fixation. In their action taken reply, the Ministry of Railways have contended that at no stage were the suppliers allowed to dictate their terms. Different tender committees had examined in depth the prices in the different tenders by making a broad analysis of the claims made by the firm, taking into account the contemporary price escalations as reflected in various relevant economic indices. The Committee have not accepted the above explanation of the Ministry and have observed how in the absence of authentic detailed cost break-up, it can be said that the price increases allowed to the firm from time to time were reasonable and justified. True, the Tender Committee had held discussions and negotiations with the firm to reduce prices, but obviously these could only be within the periphery of the prices indicated by the firm, to verify the correctness of which the Railway administration had no means. The Committee have pointed out that general economic indices or indices of commodity groups are hardly a substitute for verifiable authentic detailed price break-up data of the particular commodity under transaction. The Committee have reiterated their earlier view that the firm had taken undue advantage of its position as a monopoly indigenous supplier and have desired the Ministry of Railways to draw upon their experience in the present case and to take adequate safeguards so as not to fall in such helpless situations in future. In particular, the Ministry should ensure that in all stores contracts to be entered into with monopoly suppliers in future, 'Book Examination' clause is invariably incorporated.

(vi)

3. In their earlier Report, the Committee had also observed that once the imports were stopped in 1967, no efforts were made by the Ministry of Railways to ascertain the international prices of similar equipment. In their reply, the Ministry of Railways have stated that in view of all round emphasis laid by Government from time to time for indigenisation of imported stores with a view to conserving foreign exchange, international bids were not invited. The Committee are surprised at this explanation and have emphasised that while they are all for indigenisation, they cannot accept the proposition that, in the name of indigenisation, an indigenous monopoly manufacturer may be allowed to have his way and charge any price he desires, irrespective of his cost of production.

4. In their action taken reply, the Ministry of Railways have also *inter alia* stated that as per the advice given to them by the Ministry of Finance, there seems to be no legal provision in the Companies Act or the Industries Act under which a company can be directed to furnish data for cost examination. The Committee have desired the Department of Company Affairs and the Ministry of Industry to examine the feasibility of amending the existing law so as to empower Government in appropriate cases to direct a firm to furnish data for cost examination.

5. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 14 February, 1984.

6. For facility of reference and convenience, the recommendations and conclusions of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in the Appendix to the Report.

7. The Committee place on record their appreciation of the assistance rendered to them in this matter by the office of the Comptroller & Auditor General of India.

NEW DELHI;

22 February, 1984
3 Phalgun, 1905(8)

SUNIL MAITRA

Chairman
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with action taken by Government on the Committee's recommendations and observations contained in their 102nd Report (Seventh Lok Sabha) on Paragraph 9 of the Advance Report of the Comptroller and Auditor General of India for the year 1979-80, Union Government (Railways) relating to Chittaranjan Locomotive Works—Suri Transmission and reversing gear boxes for diesel shunters.

2. The 102nd Report, which was presented to Lok Sabha on 30 April, 1982, contained 13 recommendations/observations. Action Taken Notes have been received in respect of all the recommendations/observations and these have been broadly categorized as follows :—

- (i) Recommendations/observations that have been accepted by Government :

Serial Nos. 1, 2, 3, 4, and 10.

- (ii) Recommendations/observations which the Committee do not desire to pursue in view of the replies received from Government :

Serial Nos. 5 and 11.

- (iii) Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration:

Serial Nos. 7 and 8.

- (iv) Recommendations/observations in respect of which Government have furnished interim replies :

Serial Nos. 6, 9, 12 and 13.

3. Although a period of over a year has elapsed since the Report was presented to the house, final replies in respect of four recommendations have not yet been received. The Committee desire that final replies to

these recommendations duly vetted by Audit, should be furnished to them without delay.

4. The Committee will now deal with action taken by Government on some of their recommendations.

5. In their 102nd Report (1981-82), the Public Accounts Committee dealt with the supply of Suri Transmission and Reversing Gear Boxes by M/s. Kirloskar Pneumatic Co. Ltd., Pune to Chittaranjan Locomotive Works for diesel locomotives. Earlier, the Suri Transmission and Reversing Gear Boxes were being imported. But since November 1967, the Chittaranjan Locomotive Works started procuring these equipments from the aforesaid indigenous manufacturers who were the only firm manufacturing hydraulic transmission equipment and heavy duty gear boxes. While in November 1967, when the first order was placed, the price per set was Rs. 2,20,183, the same was increased to Rs. 3,18,000 per set in March 1974, and Rs. 4,51,530 in January, 1979. Within ten months in *i.e.* November 1979, the price was further increased to Rs. 5,73,450 per set, *i.e.* an increase of Rs. 1,21,880 per set. The Committee were surprised to note that no cost examination had been conducted either at the time of placing the first order or even subsequent orders, nor had the firm at any stage produced authenticated data, or documentary evidence to substantiate their demands for escalation of prices. Some of the price increases over which the Committee expressed particular dissatisfaction were as follows :

- (i) In November, 1970, the firm asked for an increase of Rs. 60,763 including Rs. 30,000 for increased cost of forgings and Rs. 12,000 for wage escalations. After negotiations, an increase of Rs. 57,358 was agreed to. The profit margin in the above increase amounted to Rs. 15,458, *i.e.*, a profit of 36.5 per cent of the price increase of Rs. 42,000 on account of materials and wages.
- (ii) The price allowed for the March, 1974 order was higher than the last contract price by Rs. 36,467 per set. This included an increase of Rs. 7,835 claimed by the firm on the ground that one of its sub-contractors had offered a discount if the components were given to him in batches instead of in piecemeal but the ordering in batches was not possible as it would involve extra cost. The Committee failed to understand why Railways should be required to pay an additional amount of Rs. 7,835

per set in order to compensate the firm for the loss of discount which the firm had foregone to suit their own convenience.

- (iii) Another element of price increase amounting to Rs. 3,000 per set was allowed to the firm in March 1974 order on the ground that the firm had revised the method of allocation of heat treatment shop cost. While earlier in the cost, the heat treatment shop cost was distributed equally between the various activities of the firm, it had now assessed that the major portion of the work done in the heat treatment was on the components of transmission only. The firm made a claim of Rs. 4,000 on account of extra heat treatment charges but did not show authenticated records in support of the claim. Ultimately, an increase of Rs. 3,000 was agreed to after the visit of the high level Tender Committee to the firm's works.
- (iv) The price of the equipment for March, 1974 order was settled after providing for adequate escalation to cover deliveries upto September 1976. However, for the order of May 1977, the firm was given a revised price of Rs. 4.12 lakhs representing an increase of 30 per cent to cover the price escalation between May 1973 and September 1976, even though the March, 1974 price had been settled after providing for escalation upto September, 1976 and therefore, escalation only beyond this date should have been taken into account while fixing the price for May, 1977 order.

The Committee failed to understand how in the absence of a cost study and authenticated data in respect of escalation in costs, the Tender Committee could decide that the escalations in prices asked for by the firm were justified. The Committee were surprised to note that even after 1975 when the Railway Board had taken a decision to introduce the 'Book Examination' clause in stores contracts, this clause was not included in any of the contracts, entered into with the firm. The Committee were not satisfied with the contention of the Ministry of Railways that "even if such a clause had been insisted upon, it is doubtful if the firm would have agreed to it, as seen from their general reluctance to cost audit etc."

6. After going into the matter in all its aspects, the Public Accounts Committee concluded as follows in para 62 of their 102nd Report:—

- (i) From the foregoing paragraphs, the Committee cannot but conclude that the firm (M/s KFC Ltd., Pune) have taken undue advantage of their position as monopoly indigenous supplier of Suri Transmission (ST) and Reversing Gear Box (RGB) equipment and have been dictating their terms to the Railways in the matter of price fixation. While the formalities of having negotiations were gone through at the time of placing orders, in actual practice, practically all the demands of the firm were being agreed to. The firm not only did not agree to cost audit, but also refused to produce any authenticated evidence to support their demand for escalation in prices from time to time.
- (ii) Once the imports were stopped in 1967, no efforts were made by the Ministry of Railways to ascertain the international prices of similar equipment.
- (iii) No serious efforts have also been made to develop an alternative source of supply as is evident from the fact that it was only in 1979 that a developmental order was placed for 5 sets on another firm and even the same has not been seriously pursued.
- (iv) What is really surprising is that inspite of the decision of Railway Board in 1975, 'book examination' clause was not included in any of the contracts. The Committee would like to express their displeasure at the indulgence shown to this firm all along.
- (v) The Committee would recommend that this is a fit case to be examined by the Cost Accounts Organisation of the Ministry of Finance to determine how far the increase in prices given to the firm from time to time was justified and the extent to which the manufacturer had derived undue benefit.

- (vi) The Committee would also like the matter to be examined at higher level to determine the policy of Government in regard to such cases where a sole indigenous manufacturer of any equipment taking advantage of his monopolistic position has been dictating terms to Government and forcing them to agree to escalations in prices which in many cases are not justified.

7. In their action taken reply, the Ministry of Railways have stated as follows:

62 (i) It is submitted that at no stage were the suppliers allowed to dictate their terms. The prices in the different tenders were examined in depth by different tender committees by making a broad analysis of the claim made by the firm, taking into account the contemporary price escalation as reflected in various relevant economic indices and arrive at reasonable and overall price settlement by holding repeated discussions and negotiations with the firm. Price reductions have been obtained in almost all the cases and finally negotiated prices were considered reasonable by the tender committee taking all aspects into consideration. Tabulation of price indices of various commodities from 66-67 to 79-80 is furnished in a table in the enclosed annexure. From the various price indices including the consumer price index increase, price increase on ST and RGB from year to year is not considered unreasonable.

62 (ii) There is all-round emphasis laid by the Govt. from time to time for indigenisation of imported stores with a view to conserving foreign exchange. Therefore, where stores could be procured at reasonable price and where sufficient indigenous capacity is available, international bids are not invited as a matter of policy.

62 (iii) Development of new source is a long-drawn process, especially due to sophisticated nature of the item involving high capital investment which may not be justifiable due to requirement being small. However development order was placed in 1979 for RGB on M/s. New Allenbury Works. Unfortunately, development efforts did not meet with success as the firm was on a prolonged lockout and after opening for few months they were again on lockout. There were also

proposals under consideration for cut back of the production of WLS4 locomotives. Railways are also considering to replace the existing transmission with voith transmission. The entire situation being in a rather fluid stage it is doubtful whether another indigenous source can materialise at all with the off-take being limited. However, instructions have been reiterated to explore further possibilities for development of alternate source.

62 (iv) Book examination clause was introduced in Railway Board Contracts in 1975. Instructions have been issued to Railways/Production Units *vide* Board's letter No. 82/RS (G)/777/2 dated 27.1.1983 for adoption of Book examination clause for high value contracts.

62 (v) In an earlier reference to the Ministry of Finance it has been advised that "the firm's consent for such an examination is necessary before the study and there seems to be no legal provision in the Companies Act or in the Industries (D&R) Act under which the company can be directed to furnish the requisite data for the examination of the cost structure". In another case Ministry of Industries *vide* their letter No. 17/(5)/77-M(I) dated 1.12.77 have advised on similar lines (copy enclosed). However, in view of the PAC's recommendation, Chief Adviser Cost, Ministry of Finance has been referred *vide* this Ministry's Office Memorandum No. 82/RS(G)/779/36 dated 31.12.82 (copy enclosed) for conducting a cost study and to recommend the price that should have been reasonable and paid for ST and RGB procured from M/s. KPC.

The outcome of the reference made to Ministry of Finance and action taken on the findings of Cost Study will be advised to PAC in due course.

62 (vi) Ministry of Supply has been addressed *vide* Ministry's Memorandum No. 82/RS(G)/779/36 dated 31.12.1982 (copy enclosed) to consider laying down necessary safeguards in cases of procurements from sole indigenous manufacturer so as to ensure that he does not take advantage of his monopolistic position in quoting prices.

The outcome of the reference made to Ministry of Supply will be advised to PAC in due course.

8. In their 102nd Report (1981-82), the Public Accounts Committee had observed that the firm (M/s. Kirloskar Pneumatic Co. Ltd., Pune) had taken undue advantage of their position as monopoly indigenous supplier of Suri Transmission (ST) and Reversing Gear Box (RGB) equipment and had been dictating their terms to the Railways in the matter of price fixation. While the formalities of negotiations were gone through at the time of placing orders, in actual practice, practically all the demands of the firm were being agreed to. The firm not only did not agree to cost audit, but also refused to produce any authenticated evidence to support their demands for escalation in prices from time to time. In their action taken reply, the Ministry of Railways have contended that at no stage were the suppliers allowed to dictate their terms. Different tender committees had examined in depth the prices in the different tenders by making a broad analysis of the claims made by the firm, taking into account the contemporary price escalations as reflected in various relevant economic indices and arrived at reasonable and overall price settlement by holding repeated discussions and negotiations with the firm. Price reductions had been obtained in almost all the cases and finally negotiated prices were considered reasonable by the tender committees taking all aspects into consideration.

9. The Committee are unable to accept the above explanation of the Ministry of Railways. As the Committee observe, no cost examination had been conducted either at the time of placing the first order or subsequent orders, nor had the firm at any stage produced authenticated data or documentary evidence to substantiate its demands for escalation of prices. In a note* furnished to the Committee, the Ministry have themselves conceded that "in the absence of cost audit and legal compulsion for the firm to furnish authenticated detailed price break-up, the Tender Committee (was) left with no alternative but to come to an overall assessment". Even after 1975 when the Railway Board had taken a decision to introduce the 'Book Examination' clause in stores contracts, this clause was not included in any of the contracts entered into with the firm. The explanation of the Ministry for this failure was that "even if such a clause had been insisted upon, it is doubtful if the firm would have agreed to it as seen from their general reluctance to cost audit, etc." It is not clear to the Committee how in the absence of authentic

*Vide Para 17 of 142nd Report of PAC, 7th Lok Sabha.

detailed cost break-up, it can be said that the price increases allowed to the firm from time to time were reasonable and justified. True, the Tender Committee had held discussions and negotiations with the firm to reduce prices, but obviously these could only be within the periphery of the prices indicated by the firm, to verify the correctness of which the Railway administration had no means. It is hardly necessary for the Committee to point out that general economic indices or indices of commodity groups are hardly a substitute for verifiable authentic detailed price break-up data of the particular commodity under transaction. In view of the foregoing, the Committee are more than ever convinced that the firm (M/s. Kirloskar Pneumatic Co. Ltd., Pune) had taken undue advantage of its position as monopoly indigenous supplier of Suri Transmission and Reversing Gear Box equipment and had been dictating terms to the Railways in the matter of price fixation. The Committee trust that the Ministry would draw upon their experience in the present case and take adequate safeguards so as not to fall in such helpless situations in future. In particular, the Ministry would ensure that in all stores contracts to be entered into with monopoly suppliers in future 'Book Examination' clause is invariably incorporated.

10. In their earlier Report, the Committee had also observed that once the imports were stopped in 1967, no efforts were made by the Ministry of Railways to ascertain the international prices of similar equipment. In their reply, the Ministry have stated that there is all round emphasis laid by Government from time to time for indigenisation of imported stores with a view to conserving foreign exchange. Therefore, where stores could be procured at reasonable price and where indigenous capacity is available, international bids are not invited as a matter of policy. The Committee are surprised at this explanation. While the Committee are all for indigenisation, they find it difficult to accept the proposition that in the name of indigenisation, an indigenous monopoly manufacturer may be allowed to have his way and charge any price he desires, irrespective of his cost of production. In the opinion of the Committee, the Ministry of Railways could have ascertained prices of similar equipment from some leading foreign manufacturers to have an idea as to how far the initial prices quoted by the indigenous firm as also subsequent cost escalation demanded by the firm were reasonable. The Committee trust that given the circumstances as in

the present case, the Ministry of Railways would also keep international prices in view so that the indigenous monopoly manufacturer may not take an undue advantage of his monopoly position.

11. The Committee note that pursuant to their recommendation, a reference has been made by the Ministry of Railways to the Chief Adviser Cost, Ministry of Finance for conducting a cost study and indicating the price that should have been paid to the firm for Suri Transmission and Reversing Gear Boxes. The Committee would like to be informed of the outcome of the reference made to the Ministry of Finance and the action taken on their findings.

12. In their earlier Report, the Committee had also desired Government to examine the matter at a higher level to determine the policy of Government in regard to cases of the present type where a sole indigenous manufacturer taking advantage of his monopolistic position may dictate his terms and force Government to agree to escalations in prices which in many cases may not be justified. In their action taken reply, the Ministry of Railways have intimated that they have asked the Ministry of Supply to consider laying down necessary safeguards in cases of procurements from the sole indigenous manufacturers so as to ensure that they do not take undue advantage of their monopolistic position in quoting prices. The Committee would like to be informed of the outcome of the reference made to the Ministry of Supply.

13. In their action taken reply, the Ministry of Railways have also *inter alia* stated that as per advice given to them by the Ministry of Finance, there seems to be no legal provision in the Companies Act or the Industries Act under which a company can be directed to furnish the requisite data for cost examination. The Committee would like the Department of Company Affairs and the Ministry of Industry to examine the feasibility of amending the extant law so as to empower Government in appropriate cases to direct a firm to furnish data for cost examination.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The diesel locomotives produced at Chittaranjan Locomotives Works (CLW) were in the initial stages provided with Suri transmission (ST) and a reversing gear box (RGB) to enable working of the locomotives for both shunting and shuttle services. Earlier these ST and RGB were being imported, but since November, 1967, CLW has been procuring these equipment from an indigenous manufacturer M/s Kirloskar Pneumatic Co. Ltd., Pune. This is the only firm which manufactures hydraulic transmission equipment and heavy duty gear boxes. In July 1971, this firm also obtained a licence for manufacture of ST.

[S.No. 1 (Para 50) of Appendix I to 102nd
Report of PAC (7th Lok Sabha)]

Action Taken

The observations of the Committee have been noted.
This has been seen by Audit.

[Ministry of Railways (Railway Board)'s O.M. No.82-
BC-PAC/VII/102 dated 28.2.1983.]

Recommendation

The procurement of the equipment was made after obtaining quotations on single tender basis and negotiating a price thereafter with the firm. From 1976, open tenders were invited but the technically acceptable offer was from this firm only. The price for the initial order exclusive of certain imported components supplied free by CLW included about 30 percent preference over the contemporaneous CIF cost of imported complete ST and RGB. For the subsequent orders, the price for the initial order was treated as the base price taking into account escalation for

wages, materials etc, over the previous contract as indicated by the firm and to the extent agreed to during negotiations.

[S. No. 2 (Para 51) of Appendix I to 102nd Report of
PAC (7th Lok Sabha)]

Action Taken

The observations of the Committee have been noted.
This has been seen by Audit.

[Ministry of Railways (Railway Board)'s O.M. No. 82-
BC-PAC, VII/102 dated 28.2.1983.]

Recommendation

The Committee note that there has been substantial increase in the price of the equipment in subsequent orders. While in November, 1967 when the first order was placed, the price per set was Rs. 2,20,183, the same increased to Rs. 3,18,000 per set in March, 1974 and Rs. 4,51,530, in January 1979. Within ten months i.e. in November 1979 the price further increased to Rs. 5,73,450 per set i.e. an increase of Rs. 1,21,880 per set. A review in the audit of the prices fixed from time to time has revealed that the price increases allowed on several accounts were not justified.

[S. No. 3 (Para 52) of Appendix I to 102nd Report of
PAC (7th Lok Sabha)].

Action Taken

The observations of the Committee have been noted.
This has been seen by Audit.

[Ministry of Railways (Railway Board)'s O.M. No. 82- BC-
PAC/VII/102 dated 28.2.1983.]

Recommendation

The Committee have been informed by the Ministry of Railways that the price for the first order of November 1967 were determined by the purchase policy as governed by the directives of the Government of India based on the recommendation of the Stores Purchase Committee. However, it is seen from the letter of Railway Board dated 18 May, 1956 on the sub-

ject that in the purchase policy, it has been laid down that 'in respect of lines of manufacture which are the monopoly of a single firm or a group of firms, the degree of price preference to be given may be subject to examination of costs of manufacture by Government where considered necessary. The Committee, are, however, surprised to note that no cost examination has been conducted either at the time of placing the first or even subsequent order, nor the firm had at any stage produced authenticated data or documentary evidence to substantiate their demand for escalation in prices. The Committee are not convinced with the reply of the Ministry of Railways that in the absence of cost audit and legal compulsion for the firm to furnish authenticated detailed price break-up, the Tender Committee is left with no other alternative but to come to an overall assessment and while doing so, getting as much information as possible. The Committee are of the firm view that no indigenous manufacturer should be allowed to take undue advantage of its monopoly position to dictate terms in respect of price of the equipment supplied by them and the Railways should have insisted upon cost audit and authenticated detailed break-up supported by documentary proof before agreeing to such escalation in costs which in many cases were not justified.

[S. No. 4 (Para 53) of Appendix I to 102nd Reported of
PAC (7th Lok Sabha)]

Action Taken

The observations of the Committee have been noted.

This has been seen by Audit.

[Ministry of Railways (Railway Board)'s O.M. No. 82-BC-
PAC/VII/102 dated 28.2.1983.]

Recommendation

The Committee note that in 1975, the Railway board had taken a decision to introduce the 'Book Examination' clauses in stores contracts. However, the Committee regret to note that this clause was not included in any of the contracts entered into with the firm. The Committee are surprised at the contention of the Ministry of Railways that "in any case even if such a clause had been insisted upon, it is doubtful if the firm would have agreed to it as seen from their general reluctance to cost audit etc." The Committee feel that in view of the decision of the Railway

Board, it was incumbent on the Tender Committee to have taken up the matter with the firm and insisted upon it that the Tender Committee did not even take up the matter with the firm clearly shows that the Tender Committee was meekly submitting to all the demands made by the firm without even making any efforts to enforce the decision of the Railway Board.

[S. No. 10 (Para 59) of Appendix I to 102nd Report
of PAC (7th Lok Sabha)].

Action Taken

Book examination clause was introduced in Railway Board Contracts in 1975. Instructions have been issued to Railways/Production Units *vide* Board's letter No. 82/RS(G)/777/2 dated 27.1.1983 for adoption of Book examination clause for high value contracts.

This has been seen by Audit.

[Ministry of Railways (Railway Board)'s O.M. No.
82-BC-PAC-VII/102 dated 28.2.1983.]

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES RECEIVED FROM GOVERNMENT

Recommendation

The Committee note that to a query from them as to why the Department of Heavy Industry was not approached for a cost probe by the Bureau of Industrial Costs and Prices whereas such a study of the pricing policy of Seamless Steel Tubes for which M/s Indian Tube Co. is the sole manufacturer was conducted by the BICP, the Ministry of Railways have replied that 'the Tender Committee after getting convinced of the increases asked for by the firm on an overall basis recommended the rates for acceptance. Hence, a reference to BICP was not felt necessary.' The Committee fail to understand how in the absence of a cost study and authenticated data in respect of escalation in costs, the Tender Committee could decide that the escalation in prices asked for by the firm was justified. The Committee cannot but conclude that the whole matter has been dealt with in a very casual manner in utter disregard of principles of financial propriety.

[S. No. 5 (para 54) of Appendix I to 102nd Report
of PAC (7th Lok Sabha)]

Action Taken

The observations of the Committee are noted. It is however submitted that on a subsequent reference made to BICP it has been advised that the Bureau does not normally undertake the study of the cost/price function of an individual unit, leave alone an individual item. In another reference to Ministry of Finance it has been advised that there seems to be no legal provision in the Companies Act or the Industries (DER) Act under which the company can be directed to furnish the requisite data for cost examination. It is therefore submitted that Orders were placed on the firm

only after the tender Committee had examined the reasonableness of the prices demanded over the last order rates.

This has been seen by Audit who have made the following observations :—

“The replies to these recommendations are mostly repetition of the notes submitted to the Committee. As these arguments have already been taken note of by the Committee. We have no further comments to offer.”

[Ministry of Railways (Rly. Board)'s O.M. No. 82-BC-PAC/
VII/102 dated 28.2.1983.]

Recommendation

While fixing the prices for November 1979 order in order to itemise the increase, the firm was asked to evolve a formula for Price variation on the basis of those adopted by Electrical Equipment Manufacturers. The Railways, however, could not enforce the formula as the firm did not agree to the same and indicated that at present they were unable to evolve any such formula and CLW could not unilaterally apply LEMA formula. In view of the Committee, this is yet another instance where the Railways failed to persuade firm to accept such a reasonable demand.

[S. No. 11, Para 60 of Appendix I to 102nd Report of
PAC (7th Lok Sabha)]

Action Taken

For the November 1979 order, the firm had quoted price variation clause and demanded price ruling at the time of supply, without indicating any definite price variation formula. The Tender Committee while finalising 1979 order has not only been able to obtain price reduction but were also successful in making the firm withdraw the unrestricted price variation clause quoted by them. Thus the order was placed on a firm price basis. When fixed price contract was placed, the question of providing price variation clause did not arise as this would have amounted to payment of extra cost during the pendency of the contract.

This has been seen by Audit who have made the following observations :—

“The replies to these recommendations are mostly repetition of the notes submitted to the Committee. As these arguments have already been taken note of by the Committee, we have no further comments to offer.”

**[Ministry of Railways (Railway Board)'s O.M. No. 82-BC-PAC/
VII/102 dated 28.2.1983.]**

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

The Committee further note that the price allowed for the March, 1974 order was higher than the last contract price by Rs. 36,467 per set. This included an increase of Rs. 7,835 which was justified by the firm on the ground that one of its sub-contractors had offered a discount if the components were given to it (sub-contractor) in batches instead of in piecemeal but the ordering in batches was not possible as it would involve extra cost. The team of Senior Scale officers of CLW who visited the firm's works allowed Rs. 7,000 on this account but the High Level Tender Committee (HLTC) conceded the increase of Rs. 7,835. The firm also declined to show any evidence or document to establish this claim stating that it would 'more or less tantamount to audit of books which had not been agreed to by them in principle.' The Ministry of Railways have stated that they had asked M/s KPC officers to accept 5 ST & RGB per month but the firm did not agree to the same on the ground that they had not achieved the figure of 5 as yet and therefore, they had considered 4 ST and RGB per month only. Further, although the sub-contractor had offered a discount if the components were given to them in batches instead of piecemeal, M/s KPC stated that it was not possible for them to order in batches as this would entail building up of inventories which would involve extra costs. The Committee fail to understand why Railways should be required to pay an additional amount of Rs. 7,835 per set in order to compensate the firm for the loss of discount which the firm had forgone to suit their own convenience. This further fortifies the conclusions that by taking advantage of their position as sole indigenous supplier of the equipment, the firm had been dictating terms to the Railways to which the latter was meekly submitting, what is more disturbing is that the Ministry of Railways have tried to justify this increase by stating that 'A supplier has necessarily to build up all the costs in his pricing. His cost is based on all the expenditure involved and as such the

loss of discount due to valid reasons which he had incurred would also account for increase in price.' The Committee find his argument totally untenable.

[S. No. 7 (Para 56) of Appendix I to 102nd Report
of PAC (7th Lok Sabha)]

Action Taken

As explained earlier the increase of Rs. 7,835/- was not merely on account of the discount for not ordering in batches. The increase between 1972 and 1973 was on account of increased cost of sub-contract operation. The Sr. Scale Officers' Committee after going through the records had partly justified an amount of Rs. 6,930/- (though not fully backed up by documents) in respect of some items obtained by the firm from one of their sub-contractors, and, another 905 nos. On account of sub-contract portion of another sub-contract. As all the documents for the increase asked for by the firm were not made available by the firm, the figure of Rs. 7,000/- was considered reasonable by Sr. Scale Officers' Committee. Considering the amount involved over Rs. 7,000/- being small and the fact that a substantial portion of amount asked for had been found justified by verification, HLTC had apparently agreed to this as a part of total negotiated settlement. It would be appreciated that it is not always possible to verify to the last detail the increase asked for by the firm. It is therefore submitted that there was no question of the railways having to submit to the dictates of the supplier. A major portion of the increase of Rs. 7,835/- had been backed by details made available by the supplier subsequently.

This has been seen by Audit who have made the following observations :—

“The replies to these recommendations are mostly repetition of the notes submitted to the Committee. As these arguments have already been taken note of by the Committee, we have no further comments to offer.”

[Ministry of Railways (Rly. Board)'s O.M. No. 82-BC-PAC/VII/102
dated 28.2.1983.]

Recommendation

The Committee further note that another element of price increase amounting to Rs. 3,000 per set was allowed to the firm in March 1974 order on the ground that the firm had revised the method of allocation of heat treatment shop cost. while earlier in the cost, the heat treatment shop cost was distributed equally between the various activities of the firm, they had now assessed that the major portion of the work done in the heat treatment was on the components of transmission only. The firm made a claim of Rs. 4,000/- extra heat treatment charges but did not show authenticated records in support of the claim. Ultimately an increase of Rs. 3,000 was agreed to after the visit of HLTC (High Level Tender Committee) to firm's works. The Ministry of Railways have stated that 'there is no record to indicate what actual documents they (HLTC) had checked but it is presumed that they would have examined the costing procedure, methods of allocation before arriving at the conclusion.' The Committee do not agree with this presumption, particularly in view of the fact that the firm had not shown any authenticated records in support of their demand. The Committee are of the view that this increase of Rs. 3,000 per set allowed to the firm was totally unjustified.

[S.No. 8 (Para 57) of Appendix I to 102nd Report
of PAC (7th Lok Sabha)]

Action Taken

As explained earlier, the price increase of Rs. 3,000/- allowed was not merely on account of the method of allocation of Heat Treatment Shop cost but also on account of increase in cost due to increase in price of fuel oil, quenching oil, salts and chemicals etc. The HLTC had, after assessing the reasonableness of the demand for increase of Rs. 4,000/-, considered only Rs. 3,000/- on the basis of records/documents etc., presented to them on their visit after due negotiations. M's. KPC had subsequently given certain documents justifying the demand for increase on account of Heat treatment charges.

This has been seen by Audit who have made the following observations :—

“The replies to these recommendations are mostly repetition of the notes submitted to the Committee. As these arguments have already been taken note of by the Committee, we have no further comments to offer.”

[Ministry of Railways (Rly. Board)'s O.M. No. 82-BC-PAC/VII/102
dated 28.2.1983.]

CHAPTER V
RECOMMENDATIONS/OBSERVATIONS IN RESPECT
OF WHICH GOVERNMENT HAVE FURNISHED
INTERIM REPLIES

Recommendation

The Committee note that for November 1970, contract, the firm had asked for an increase of Rs. 60,763 including Rs. 30,000 for increased cost of forgings and Rs. 12,000 for wage escalations. After negotiations, increase of Rs. 57,358 was agreed to. Even presuming that the reduction accepted by the firm was in its profit margin, the later amounted to Rs. 15,450 i.e. 36.5 per cent of the price increase of Rs. 42,000 on materials wages. The Ministry of Railways have, however, stated that this item viz. 'margin of profit' was not reflected in any of the firm's documents. They have, however, admitted that according to the Minutes of the Tender Committee, the firm's representatives were not in favour of giving details of increase in writing as this was not their practice'. In view of the reluctance of the firm to give any further details except in respect of escalation in the cost of forgings and wages and also in view of the statement of the Ministry of Railways that no details other than those mentioned during discussions are available in the files', the Committee have no option but to conclude that the remaining escalations in cost granted to the firm were in respect of increase in their profit margin. The Ministry of Railways have further stated that even if the entire amount of Rs. 15,358 is taken as margin of profit, this would come to 14.7 per cent on the total price of Rs. 2,53,695. While the Committee would not like to go into the controversy whether the margin of profit allowed was 36.5 per cent as stated by audit or 14.7 per cent as claimed by the Ministry of Railways, the fact remains that the firm was allowed more than usual margin of profit of 10 per cent. The Committee cannot but express their dissatisfaction at the manner in which the firm was allowed such a high margin of profit.

[S.No. 6 (Para 55) of Appendix I to 102nd
Report of PAC (7th Lok Sabha)]

Action Taken

The increase of Rs. 60,763/- in the November 1970 order was over the order of March 1970 at Rs. 2,17,032/- which itself was placed in terms of firm's offer of December 1966, and finalised after the negotiations held on 29/30.9.1967. Even though in the negotiations held on 29/30.9.1967 the firm had offered to accept 30 additional Loco Sets within 12 months of the final order i.e., November 1967, they accepted the repeat order even after lapse of 2½ years from the date of negotiations at a lower price than the original order of November 1967. Thus the price increase of Rs. 60,763/- against November 1970 order should be considered as having taken place during the course of about 3 years with reference to the price ruling in November 1967. The Railway Board would like to submit, therefore that the amount of Rs. 15,358/- excluding the increase in cost of forgings and wages is not to be considered on profit alone, but would include increase in overheads, defraying part of additional capital expenditure etc...Overall, the Tender Committee was satisfied that the price increase asked for by the firm is within the reasonable limits.

However, as desired by the Public Accounts Committee, in para 62, the matter has been referred to the Chief Adviser cost, Ministry of Finance.

This has been seen by Audit who have made the following observations :—

“The replies to these recommendations are mostly repetition of the notes submitted to the Committee. As these arguments have already been taken note of by the Committee. We have no further comments to offer.”

[Ministry of Railways (Rly. Board)'s O.M. No.82-BC-PAC/VII/102
dated 28.2.1983.]

Recommendation

The Committee note that the price of the equipment for March 1974 order was settled after providing for adequate escalation to cover deliveries upto September 1976. However, for the order of May, 1977, the firm was given a revised price of Rs. 4.12 lakhs representing an increase of 30 per cent to cover the price escalation between May, 1973 to September 1976. Audit has pointed out that since March 1974 prices settled after providing for

escalation upto September 1976, the escalation beyond this date only should have been taken into account while fixing the price for May 1977 order. The Ministry of Railways have stated that it is incorrect to infer that 1974 order included all the elements of price increases which had taken place after placement of order." It has however, been admitted by the Ministry of Railways that "a supplier does keep a margin in his pricing for price increases during the currency of the order but this cannot cover all the increases that take place since the last contract/quotation." The Committee find that while fixing the price for May, 1977 order, the entire price escalation between May 1973 to September 1976 was taken into consideration. The Committee feel that while fixing the price for 1977 order the Ministry of Railways should have excluded this margin which the supplier had kept for meeting the price increases and the failure to do so has resulted in the fixation of price in 1977 order at a much higher level than warranted. This failure on the part of the Ministry of Railways has resulted in undue benefit to the firm.

[S. No. 9 (Para 58) of Apoendix I to 102nd Report of PAC (7th Lok Sabha)].

Action Taken

During 1974 to 1977 which were also the "oil crisis" years there was substantial increase in the price indices of various raw materials shown as under : (Index No. of Wholesale price (Statement No. 21) is published by the Reserve Bank of India in their 'Report on Currency & Finance' 78-79, Vol.11-100 Base 70-71.

	73-74	74-75	75-76	76-77	%
Fuel, Power and Lubricants.	130.6	198.3	219.2	230.8	76.7%
Basic metals, Iron Steel and Ferro alloy.	142.6	171.3	183.6	186.9	31.1%
All India Consumer price Index for Industry Works.	250	317	313	301	20.1%

It may not be entirely correct to presume that all these price increases would have already been taken into consideration while accepting the March 1974 order. The JEMA Formula was applied by the Tender Committee while placing further orders in May 1977 for arriving at the reasonable cost and could be considered reasonable and in order.

However, as desired by the Public Accounts Committee in a subsequent recommendation, the matter has already been referred to the Chief Adviser Cost, Ministry of Finance.

This has been seen by Audit who have made the following observations :—

“The replies to these recommendations are mostly repetition of the notes submitted to the Committee. As these arguments have already been taken note of by the Committee, we have no further comments to offer.”

[Ministry of Railways (Rly. Board)'s O.M. No. 82-BC-PAC/VII/102 dated 28.2.1983.]

Recommendation

The Committee find that in July-August 1971, the Ministry of Railways (Railways Board) decided to simplify the ST by eliminating its synchronising coupling and multiple plate clutch. Meanwhile, in July 1971 an order for 30 sets of fullfledged ST was placed on the firm. The subsequent order in March 1972 was also for components and complete sets for ST. Although the later orders were suitably modified to delete the synchronising coupling, the earlier order placed in July 1971 was not amended which resulted in an avoidable expenditure of Rs. 1.21 lakhs. The Committee express their unhappiness over this lapse on the part of officials and would like the matter to be gone into to fix responsibility.

[S.No. 12. (Para 61) of Appendix I to 102nd Report of PAC (7th Lok Sabha)]

Action Taken

The July 1971 order for 30 sets has since been amended, deleting the components not required for simplified transmission. An amount of

Rs. 1,09,430/- has already been refunded by M/s. KPC out of a total amount of Rs. 1,26,920/- due from them. Regarding fixing of responsibility for this lapse the matter is separately under examination.

This has been seen by Audit who have made the following observations ;

“The reply is of interim nature. The facts stated are under verification by DA/RPU.”

[Ministry of Railways (Rly Board)'s O.M. No. 82-BC-PAC/VII/102 dated 28.2.1983.]

Recommendation

- (i) From the foregoing paragraphs, the Committee cannot but conclude that the firm (M/s KPC Ltd. Pune) have taken undue advantage of their position as monopoly indigenous supplier or Suri Transmission (ST) and Reversing Gear Box (RGB) equipment and have been dictating their terms to the Railways in the matter of price fixation. While the formalities of having negotiations were gone through at the time of placing orders, in actual practice, practically all the demands of the firm were being agreed to. The firm not only did not agree to cost audit, but also refused to produce any authenticated evidence to support their demand for escalation in prices from time to time.
- (ii) Once the imports were stopped in 1967, no efforts were made by the Ministry of Railways to ascertain the international prices of similar equipment.
- (iii) No serious efforts have also been made to develop an alternative source of supply as is evident from the fact that it was only in 1979 that a development order was placed for 5 sets on another firm and even the same has not been seriously pursued.
- (iv) What is really surprising is that inspite of the decision of Railway Board in 1975, 'book examination clause was not included in any of the contracts. The Committee would like to express their displeasure at the indulgence shown to this firm all along.

- (v) The Committee would recommend that this is a fit case to be examined by the Cost Accounts Organisation of the Ministry of Finance to determine how far the increase in prices given to the firm from time to time were justified and the extent to which the manufacturer had derived undue benefit.
- (vi) The Committee would also like the matter to be examined at higher level to determine the policy of Government in regard to such cases where a sole indigenous manufacturer of any equipment taking advantage of his monopolistic position has been dictating terms to Government and forcing them to agree to escalations in prices which in many cases are not justified.

[S.No. 13 (Para 62) of Appendix I to 102nd
Report of PAC (7th Lok Sabha)]

Action Taken

- 62 (i) It is submitted that at no stage were the suppliers allowed to dictate their terms. The prices in the different tenders were examined in depth by different tender committees by making a broad analysis of the claim made by the firm, taking into account the contemporary price escalation as reflected in various relevant economic indices and arrive at reasonable and overall price settlement by holding repeated discussions and negotiations with the firm. Price reductions have been obtained in almost all the cases and finally negotiated prices were considered reasonable by the tender committee taking all aspects into consideration. Tabulation of price indices of various commodities from 66-67 to 79-80 is furnished in a table in the enclosed *annexure*. From the various price indices including the consumer price index increase price increase on ST and RCB from year to year is not considered un-reasonable.
- 62 (ii) There is all-round emphasis laid by the Govt. from time to time for indigenisation of imported stores with a view to conserve foreign exchange. Therefore, where stores could be procured at reasonable price and where sufficient indigenous capacity is available, international bids are not invited as a matter of policy.

- 62 (iii) Development of new source is a long-drawn process, especially due to sophisticated nature of the item involving high capital investment which may not be justifiable due to requirement being small. However, development order was placed in 1979 for RGB on M/s. New Allenbury Works. Unfortunately, development efforts did not meet with success as the firm was on a prolonged lockout and after opening for few months they were again on lockout. There were also proposals under consideration for cut back of the production of WDS 4 locomotives. Railways are also considering to replace the existing transmission with voith transmission. The entire situation being in a rather fluid stage, it is doubtful where another indigenous source can materialise at all with the off-take being limited. However, instructions have been reiterated to explore further possibilities for development of alternate source.
- 62 (iv) Book examination clause was introduced in Railway Board Contracts in 1975. Instructions have been issued to Railways/ Production Units vide Board's letter No.82/RS (G)/777/2 dated 27.1.1983 for adoption of Book examination clause for high value contracts.
- 62 (v) In an earlier reference to the Ministry of Finance it has been advised that "the firm's consent for such an examination is necessary before the study and there seems to be no legal provision in the Companies Act or in the Industries (DGR) Act under which the company can be directed to furnish the requisite data for the examination of the cost structure." In another case, Ministry of Industries vide their letter No. 17/(5)/77-M(I) dated 1.12.77 have advised on similar lines copy enclosed*. However, in view of the PAC's recommendation, Chief Adviser Cost, Ministry of Finance has been referred vide this Ministry's Office Memorandum No. 82/RS (G)/779/36 dated 31.12.82 (copy enclosed)** for conducting a cost study and to recommend the price that should have been reasonable and paid for ST and RGB procured from M/s KPC.

* Enclosure 1

** Enclosure 2

The outcome of reference made to Ministry of Finance and action taken on the findings of Cost Study will be advised to PAC in due course.

- 62 (vi) Ministry of Supply has been addressed vide this Ministry's Memorandum No. 82/RS(G)/779/36 dated 31.12.1982 (copy enclosed)* to consider laying down necessary safeguards in cases of procurements from sole indigenous manufacture so as to ensure that he does not take advantage of his monopolistic position in quoting prices.

The outcome of the reference made to Ministry of Supply will be advised to PAC in due course.

Audit Observations

- 62 (i) "The reply is mostly repetition of the notes submitted to the Committee. As these arguments have already been taken note of by the Committee, we have no further remarks to offer."

62 (ii))	
62 (iii))	
62 (iv))	No remarks.
62 (v))	
62 (vi))	

[Ministry of Railways (Railway Board)'s O.M. No. 82-BC-PAC/
VII/102 dated 28.2.1983].

ANNEXURE

[Vide reply to Recommendation at S.No. 62(i)]

**TABLE SHOWING INCREASE IN PRICE INDICES FROM YEAR
1966-67 TO 1979-80**

Year	Basic Metal Alloys	Iron & Steel	Pig Iron	Semis	Cehm & Cehm Products.	Manufacturing products	Fuel power & Fabricated.	Consumer price base 1960-100	Whole-sale index all commodities
1966-67	76.9	77.0	74.2	77.6	84.5	83.4	83.2	—	—
1967-68	82.7	84.5	78.6	87.3	88.2	92.7	88.0	—	—
1968-69	85.6	88.9	84.8	90.6	87.9	92.8	92.2	—	—
1969-70	91.7	92.5	90.7	93.5	94.5	93.1	96.1	—	—
1970-71	100.0	100.0	100.0	100.0	100.0	100.0	100.0	186.0	100
1971-72	104.2	105.8	100.0	116.1	101.5	109.5	105.9	192.0	105.6
1972-73	114.4	117.6	100.0	138.4	105.0	121.9	110.1	207.0	116.2
1973-74	142.4	142.6	123.7	167.1	116.4	139.5	130.6	250.0	139.7
1974-75	173.7	171.3	162.1	200.0	168.8	168.8	198.3	317.0	174.9
1975-76	187.3	183.5	175.4	215.2	175.6	171.2	219.2	313	173.0
1976-77	192.5	186.9	181.6	221.1	171.4	175.2	230.8	301	176.6
1977-78	194.0	188.2	181.7	221.3	172.8	179.2	234.2	324	185.8
1978-79	213.9	212.5	187.8	241.1	177.2	179.5	244.0	331	185.8
1979-80	256.8	258.5	211.0	307.1	198.7	215.8	283.1	360	217.6

ENCLOSURE 1

Suresh Kumar
Deputy Secretary

D.O. No. 17(5)/77-MI

Ministry of Industry
Department of ID
New Delhi, the 1st December, 77.

Dear Shri Paranjape,

Kindly refer to your d.o. letter No. 75/RB(G)/779/48 dated the 6th November, 1977 addressed to Shri I. even, Joint Secretary in this Ministry, regarding examination of the cost structure of Oxygen and acetylene gases supplied by M/s. Industrial Gases Ltd; to Diesel locomotive Works, Varanasi.

The question raised therein has been examined in consultation with the Ministry of Law, Justice & Company Affairs (Department of Co. Affairs) and it is observed that there does not appear to be any provision either in the Companies Act or in the Industries (D.D&R) Act under which M/s. Industrial Gases Ltd. can be directed to furnish the requisite data/information required by the Chief Cost Accounts Officer (Ministry of Finance) for the examination of cost structure of Oxygen and DA gases being supplied to the DLW. The present case does not justify investigation u/s 235 or 237 or the Companies Act, 1956.

In view of the above and the fact that there is a commercial transaction and/or agreement between the DLW. Administration and M/s. Industrial Gases Ltd., it is suggested that the dispute in question may be resolved by mutual discussions or by filing a civil suit, if necessary.

Yours sincerely,
Sd/—
(Suresh Kumar)

Shri V.C. Paranjape,
Director Railway Stores,
Railway Board,
New Delhi.

ENCLOSURE 2

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MAN-
TRALAYA) (RAILWAY BOARD)

No. 82/RS/(G)/779/36

New Delhi, dated 31.12.82

OFFICE MEMORANDUM

Subject :—Determination of reasonable price payable to M/s Kirlosker Pneumatic Co., Ltd., Pune of Suri Transmission and Reversing Gear Boxes for Diesel Shunters.

1. Chittaranjan Locomotive Works has been purchasing Suri Transmission and Reversing Gear Boxes for production of Diesel Shunters from a single source viz., M/s Kirlosker Pneumatic Company Ltd., Pune since November 1967.

2. Prior to this, this item was being fully imported from M/s Mak, West Germany.

3. Purchases were effected from time to time based on the offers received from M/s KPC and subsequent negotiations wherever considered necessary.

4. 102nd Report of the PAC :

The PAC in their 102nd Report for the year 1981-82 had observed that the prices paid to M/s KPC could not be considered reasonable especially for the purchases made in November '67, November '70, March '74, May '77 and November '79. A table indicating the price and commodities to which the prices relate (pertaining to various orders covered in the Report of the PAC) is furnished at Annexure 1. Since the price fixed for each contract was on the basis of the previous contract price, the base price determined in 1967, governed the price in the subsequent contracts. The PAC who examined the evidence tendered by the Ministry of Railways have decided that this a fit case to be examined by Cost and Accounts Organi-

sation of the Ministry of Finance to determine how far the increase in prices given the firm from time to time was justified and the extent to which the manufacturer derived undue benefit. Para 62 of PAC's 102nd Report refers. Extract placed at Annexure 2.

Ministry of Railways, accordingly, request Ministry of Finance to entrust to the Chief Advisor Cost, a cost study to arrive at prices considered reasonable for Suri Transmission and Reversing Gear a Cost Boxes supplied against the above referred contracts.

Scope of study :

The study should cover all aspects and areas which have financial, repercussions on the price of the product, namely, raw material, consumables and values added by firm including labour, capacity utilisation, overheads and other expenditure. The study may also include any other aspects which in the opinion of the Cost Organisation may require consideration.

The copy of the 102nd Report of PAC 1981-82 (VII) Lok Sabha is enclosed.

Sd/—(N. SAHU)
Joint Director Railway Stores
(G) Railway Board.

DA : As above

The Chief Adviser (Cost), Ministry of Finance, New Delhi

Copy to Budget Committee Branch for file No. 82/EC/PAC/VII/-
102.

ENCLOSURE 3

Government of India (Bharat Sarkar)
Ministry of Railways (Rail Mantralaya)
Railway Board

No. 82/R S(G)/779/36

New Delhi, dt: 31.12.82

OFFICE MEMORANDUM

SUB := *Laying down procedure and policy of, procurement in cases where a sole indigenous manufacturer of equipment is involved.*

PAC in the 102nd Report 1981-82 (Seventh Lok Sabha) while commenting upon the procurement of Suri Transmission and Reversing Gear Box by Chitaranjan Locomotive Works from an indigenous supplier have commented upon of taking advantage of his monopolistic position as under :—

Para 62

“The Committee would also like the matter to be examined at higher level to determine the policy of Government in regard to such cases where a sole indigenous manufacturer any equipment taking advantage of his monopolistic position has been dictating terms to Government and forcing them to agree to escalation in prices which in many cases are not justified.”

A copy of paras 50 to 62 of the Committee's Report on the subject is enclosed.

2. The above recommendation has been made although this Ministry had advised that while placing the orders on the indigenous manufacturer Railways had acted to settle the prices in the most reasonable

manner taking into consideration the data produced by the manufacturer and general trend in the market and within the frame work of existing policy and guidelines of the Government. In this connection, it is stated that guidelines regarding price preference for indigenous product over the imported stores were decided in consultation with DGS&D and the same were spelt out in this Ministry's letter No. 78/RS(G)/763 dated 19.3.1979 and Board's letter No. 55/645/5/RE dated 18th May 1956 (Copy of each enclosed). This policy, however, is adopted at the time of first indigenous procurement when the items is indigenised. In subsequent procurement, general policy of comparing the rates with the last purchase rate and other relevant data available is taken into consideration for arriving at the reasonableness of the prices.

In another reference to the Ministry of Finance for study of cost examination, this Ministry has been advised that there seems to be no legal provision in the Company's Act or in the Industries (D&R) Act under which the Company can be directed to furnish the requisite data for the examination of the cost structure. In other case, Ministry of Industries vide their letter 17/(5)/77-MC dated 1st December, 1977 (copy enclosed) have advised on similar lines. Taking this aspect in view, the reasonableness of the rates offered by a sole supplier can be commenties based only on extraneous data available and the general market trends.

4. Since PAC has still desired that the matter should be considered at a higher level to determine the policy of Government in regard to cases where a sole indigenous manufacturer of any equipment is involved where the supplier may take advantage of his monopolistic position and dictating terms to Government and forcing them to agree to escalations in the prices which may not be justified. Ministry of supply is requested to kindly consider the recommendations of the PAC at the appropriate level for laying down the necessary procedures for guidance of purchasing Ministries. Incidentally, a similar reference for laying down procedure for the safeguards necessary in cases where imports are cheaper to indigenous capacities available, especially where sole suppliers are involved have been made

under Ministry of Railways Office Memorandum No. 79/RS(I)/874/4 dated 4.1.1982. Action taken may be advised to this Ministry at an early date.

(N. SAHU)

*Joint Director, Railway Stores (G)
Railway Board.*

DA : As above
Ministry of Supply,
New Delhi.

Copy to B(C) Branch for their file No. 82/BC/PAC/VII/102.

NEW DELHI
February 22, 1964
Phalguna 3, 1905 (Saka)

SUNIL MAITRA
Chairman
Public Accounts Committee

APPENDIX

Recommendation and Observation

Sl. No.	Para No. (S)	Ministry/Department concerned	Recommendations/Observations
1	2	3	4
1	3	Railways	Although a period of over a year has elapsed since the Report was presented to the house, final replies in respect of four recommendations have not yet been received. The Committee desire that final replies to these recommendations duly vetted by Audit, should be furnished to them without delay.
2	8&9	Railways	In their 102nd Report (1981-82), the Public Accounts Committee had observed that the firm (M/s. Kirloskar Pneumatic Co.

Ltd., Pune) had taken undue advantage of their position as monopoly indigenous supplier of Suri Transmission (ST) and Reversing Gear Box (RGB) equipment and had been dictating their terms to the Railways in the matter of price fixation. While the formalities of negotiations were gone through at the time of placing orders, in actual practice, practically all the demands of the firm were being agreed to. The firm not only did not agree to cost audit, but also refused to produce any authenticated evidence to support their demands for escalation in prices from time to time. In their action taken reply, the Ministry of Railways have contended that at no stage were the suppliers allowed to dictate their terms. Different tender committees had examined in depth the prices in the different tenders by making a broad analysis of the claims made by the firm, taking into account the contemporary price escalations as reflected in various relevant economic indices and arrived at reasonable and overall price settlement by holding repeated discussions

1

2

3

4

and negotiations with the firm. Price reductions had been obtained in almost all the cases and finally negotiated prices were considered reasonable by the tender committees taking all aspects into consideration.

The Committee are unable to accept the above explanation of the Ministry of Railways. As the Committee observe, no cost examination had been conducted either at the time of placing the first order or subsequent orders, nor had the firm at any stage produced authenticated data or documentary evidence to substantiate its demands for escalation of prices. In a note* furnished to the Committee, the Ministry have themselves conceded that "in the absence of cost audit and legal compulsion for the firm to furnish authenticated detailed price break-up, the Tender Committee (was) left with no alternative but to come to an overall assess-

ment". Even after 1975 when the Railway Board had taken a decision to introduce the 'Book Examination' clause in stores contracts, this clause was not included in any of the contracts entered into with the firm. The explanation of the Ministry for this failure was that "even if such a clause had been insisted upon, it is doubtful if the firm would have agreed to it as seen from their general reluctance to cost audit, etc." It is not clear to the Committee how in the absence of authentic detailed cost break-up, it can be said that the price increases allowed to the firm from time to time were reasonable and justified. True, the Tender Committee had held discussions and negotiations with the firm to reduce prices, but obviously these could only be within the periphery of the prices indicated by the firm, to verify the correctness of which the Railway administration had no means. It is hardly necessary for the Committee to point out that general economic indices or indices

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of commodity groups are hardly a substitute for verifiable authentic detailed price break-up data of the particular commodity under transaction. In view of the foregoing, the Committee are more than ever convinced that the firm (M/s. Kirloskar Pneumatic Co. Ltd., Pune) had taken undue advantage of its position as monopoly indigenous supplier of Suri Transmission and Reversing Gear Box equipment and had been dictating terms to the Railways in the matter of price fixation. The Committee trust that the Ministry would draw upon their experience in the present case and take adequate safeguards so as not to fall in such helpless situations in future. In particular, the Ministry would ensure that in all stores contracts to be entered into with monopoly suppliers in future 'Book Examination' clause is invariably incorporated.

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Railways

In their earlier Report, the Committee had also observed that once the imports were stopped in 1967, no efforts were made by the Ministry of Railways to ascertain the international prices of similar equipment. In their reply, the Ministry have stated that there is all round emphasis laid by Government from time to time for indigenisation of imported stores with a view to conserving foreign exchange. Therefore, where stores could be procured at reasonable price and where indigenous capacity is available, international bids are not invited as a matter of policy. The Committee are surprised at this explanation. While the Committee are all for indigenisation, they find it difficult to accept the proposition that in the name of indigenisation, an indigenous monopoly manufacturer may be allowed to have his way and charge any price he desires, irrespective of his cost of production. In the opinion of the Committee, the Ministry of Railways could have ascertained prices of similar equip-

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ment from some leading foreign manufacturers to have an idea as to how far the initial prices quoted by the indigenous firm as also subsequent cost escalation demanded by the firm were reasonable. The Committee trust that given the circumstances as in the present case, the Ministry of Railways would also keep international prices in view so that the indigenous monopoly manufacturer may not take an undue advantage of his monopoly position.

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Railways

The Committee note that pursuant to their recommendation, a reference has been made by the Ministry of Railways to the Chief Adviser Cost, Ministry of Finance for conducting a cost study and indicating the price that should have been paid to the firm for Suri Transmission and Reversing Gear Boxes. The Committee would like to be informed of the outcome of the reference made to the Ministry of Finance and the action taken on their findings.

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Railways

In their earlier Report, the Committee had also desired Government to examine the matter at a higher level to determine the policy of Government in regard to cases of the present type where a sole indigenous manufacturer taking advantage of his monopolistic position may dictate his terms and force Government to agree to escalations in prices which in many cases may not be justified. In their action taken reply, the Ministry of Railways have intimated that they have asked the Ministry of Supply to consider laying down necessary safeguards in cases of procurements from the sole indigenous manufacturers so as to ensure that they do not take undue advantage of their monopolistic position in quoting prices. The Committee would like to be informed of the outcome of the reference made to the Ministry of Supply.

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- (i) Railways
- (ii) Company Affairs
- (iii) Industry

In their action taken reply, the Ministry of Railways have also *inter alia* stated that as per advice given to them by the Ministry

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of Finance, there seems to be no legal provision in the Companies Act or the Industries Act under which a company can be directed to furnish the requisite data for cost examination. The Committee would like the Department of Company Affairs and the Ministry of Industry to examine the feasibility of amending the extant law to as to empower Government in appropriate cases to direct a firm to furnish data for cost examination.

PART II

Minutes of the Sixty-First Sitting of the Public Accounts Committee held on 14 February 1984.

The Public Accounts Committee sat from 1100 hours to 1310 hours in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhiku Ram Jain — *In the Chair*

MEMBERS

Lok Sabha

2. Shri Chitta Basu
3. Smt. Vidya vati Chaturvedi
4. Shri G. L. Dogra
5. Shri Mahavir Prasad
6. Shri Jamilur Rahman

Rajya Sabha

7. Shri Nirmal Chatterjee
8. Dr. Sankata Prasad

SECRETARIAT

Shri H. S. Kohli — *Chief Financial Committee Officer*
Shri K. K. Sharma — *Senior Financial Committee Officer*
Shri R. C. Anand — *Senior Financial Committee Officer*

REPRESENTATIVES OF AUDIT

1. Shri R. K. Chandrasekharan — *Addl. Dy. C & AG of India*
2. Shri S. P. Joshi — *Director of Audit, Commerce, Works and Misc.*
3. Shri R.S. Gupta — *Jt. Director, Defence Services.*
4. Shri A.N. Mukhopadhyay — *Jt. Director (Reports-Central)*
5. Shri K.H. Chhaya — *Jt. Director (Railways)*
6. Shri N.R. Rayalu — *Jt. Director (Defence)*

2. In the absence of the Chairman, Shri Bhiku Ram Jain was chosen to act as Chairman for the sitting under Rule 258 (2) of the Rules of Procedure and Conduct of Business in Lok Sabha.

ANNEXURE

**Modifications/amendments made by the Public Accounts
Committee in the draft Action Taken Report on
102nd Report during their sitting held
on 14.2.1984**

<i>Page</i>	<i>Para</i>	<i>Line (s)</i>	<i>Modifications/amendments</i>
2	3	1-5	<i>For the existing para 3 substitute the following :</i> <i>“Although a period of over a year and a half has elapsed since the Report was presented to the House, final replies in respect of four recommendations have not yet been received. The Committee desire that final replies to these recommendations, duly vetted by Audit, should be furnished to them without delay.”</i>
12	9	4	<i>After the words ‘entered into’ add the following :</i> <i>“with monopoly suppliers”</i>
