

**APPAREL EXPORT PROMOTION COUNCIL**

**MINISTRY OF TEXTILES**

**PUBLIC ACCOUNTS COMMITTEE  
(2018-19)**

**ONE HUNDRED AND TWENTY NINTH REPORT**

---

**SIXTEENTH LOK SABHA**



**LOK SABHA SECRETARIAT  
NEW DELHI**

PAC NO. 2168

# **ONE HUNDRED AND TWENTY NINTH REPORT**

## **PUBLIC ACCOUNTS COMMITTEE (2018-19)**

(SIXTEENTH LOK SABHA)

### **APPAREL EXPORT PROMOTION COUNCIL**

### **MINISTRY OF TEXTILES**



*Presented to Lok Sabha on:* 19.12.2018

*Laid in Rajya Sabha on:* 19.12.2018

**LOK SABHA SECRETARIAT  
NEW DELHI**

December, 2018 /Agrahayana, 1940 (Saka)

## CONTENTS

## PAGE

### COMPOSITION OF THE PUBLIC ACCOUNTS

### COMMITTEE (2018-19)

### INTRODUCTION .....

### REPORT

.....  
FLAWED TENDERING AND BIDDING  
PROCESS

UNDUE POST CONTRACTUAL BENEFITS TO  
M/S TUL

### PART II

### OBSERVATIONS/RECOMMENDATIONS

### APPENDICES\*

- |    |   |
|----|---|
| I  | Minutes of the sitting of Public Accounts Committee (2018-19) held on 4 <sup>th</sup> July, 2018    |
| II | Minutes of the sitting of Public Accounts Committee (2018-19) held on 3 <sup>rd</sup> October, 2018 |

---

*\*Not appended to the cyclostyled copy of the Report*

## COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2018-19)

**Shri Mallikarjun Kharge - Chairperson**

### **M E M B E R S** **L O K S A B H A**

2. Shri Subhash Chandra Baheria
3. Shri Sudip Bandyopadhyay
4. Shri Prem Singh Chandumajra
5. Shri Gajanan Chandrakant Kirtikar
6. Shri Bhartruhari Mahtab
7. Smt. Riti Pathak
8. Shri Ramesh Pokhriyal "Nishank"
9. Shri Janardan Singh Sigiwal
10. Shri Abhishek Singh
11. Shri Gopal Shetty
12. Dr. Kirit Somaiya
13. Shri Anurag Singh Thakur
14. Shri Shivkumar Chanabasappa Udasi
15. Dr. Ponnusamy Venugopal

### **R A J Y A S A B H A**

16. Prof. M. V. Rajeev Gowda
17. Shri Bhubaneswar Kalita
18. Shri Shwait Malik
19. Shri Narayan Lal Panchariya
20. Shri Sukhendu Sekhar Roy
21. Shri C.M. Ramesh
22. Shri Bhupender Yadav

### SECRETARIAT

1. Shri A.K. Singh - Additional Secretary
2. Shri T Jayakumar - Director
2. Smt. Bharti S Tuteja - Deputy Secretary
4. Shri Ashikho Alemo - Senior Executive Assistant

## **INTRODUCTION**

I, the Chairperson, Public Accounts Committee (2018-19), having been authorised by the Committee, do present this One Hundred and Twenty Ninth Report (Sixteenth Lok Sabha) on **"Apparel Export Promotion Council"** relating to Ministry of Textiles.

2. The Public Accounts Committee (2018-19) also took evidence of the Ministry of Textiles on the 4<sup>th</sup> July, 2018. The Committee also took evidence of the Ministries of Textiles and Corporate Affairs on 3<sup>rd</sup> September, 2018. Based on the oral evidences and the written replies received from the Ministry of Textiles, a draft Report was prepared and adopted by the Public Accounts Committee (2018-19) on 14<sup>th</sup> December, 2018. Minutes of the sittings are appended to the Report.

3. For facility of reference and convenience, the Observations/Recommendations of the Committee have been printed in bold and form Part II of the Report.

4. The Committee would like to express their thanks to the representatives of the Ministries of Textiles and Corporate Affairs for tendering evidence before them and furnishing information in connection with the examination of the subject.

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

**NEW DELHI;**  
**December, 2018**  
**Agrahayana, 1940 (Saka)**

**MALLIKARJUN KHARGE**  
**Chairperson,**  
**Public Accounts Committee**

## **REPORT PART – I**

### **I INTRODUCTORY**

This Report is based on Para No.17.1 of the C&AG Compliance Report No. 11 of 2016. Based on the findings of Audit in respect of financial transactions of Civil Ministries/Departments and Autonomous Bodies the Committee took up the aforementioned Audit Para for detailed examination.

2. The Public Accounts Committee (2018-19) selected the subject for detailed examination and took oral evidence of the representatives of the Ministries of Textiles and Corporate Affairs and representatives of Apparel Export Promotion Council (AEPC) and obtained written replies on the subject. Based on the oral evidences and written replies, the Committee examined the subject in detail.

3. In their Report, Audit found that Apparel Export Promotion Council (AEPC) published advertisements (August/September 2007) in newspapers for leasing of furnished office premises measuring 23,382 sq. ft. at Bhikaji Cama Place, New Delhi. In response, AEPC received eight quotations by the due date i.e. 15 September, 2007. Three bidders, viz. M/s E-Square International, New Delhi (amount quoted ₹ 200-250 per sq. ft.), M/s The Institute of Planning and Management - IPM (amount quoted ₹ 235 per sq. ft.) and M/s Japan International Cooperation Agency – JICA (amount not mentioned in the bid) were shortlisted and called for negotiation on 26 September 2007. In the meantime, bid of ₹ 265/ sq. ft. was received from M/s Teesta Urja Limited (TUL) on 24 September 2007 i.e. after opening of bids of other bidders on 19 September 2007. Though, M/s TUL did not participate in the tendering process, AEPC invited them, along with the short listed bidders, for further negotiations. M/s E-Square International did not turn up for negotiations and M/s IPM sought one day's time to give their best offer on 27 September 2007, but finally they also did not turn up. Representatives of M/s JICA intimated ₹175/ sq. ft. as their maximum price. AEPC considered M/s TUL as highest bidder who agreed for taking the building at a rent of ₹ 270/ sq. ft. AEPC entered (1 December 2007) into a lease agreement with TUL for leasing of office premises for a period of six years with effect from 1<sup>st</sup> December 2007 to 30 November 2013. As stipulated in the agreement, the lease rent was to be enhanced by 15 per cent of the basic rent after lapse of three years from the date of commencement of the lease. Further, as per clause 4 of the agreement the "lessee shall also pay annual property tax of the hired premises".

4. However, in November 2008, TUL informed AEPC the prevailing rental rates (based on real estate websites) for office complexes in South Delhi and requested for reduction in office lease rent from ₹270/sq. ft. to ₹150/sq. ft. Considering the request of M/s TUL, AEPC decided to reduce the rent from ₹270 per sq. ft. to ₹190 per sq. ft., with effect from 01-04-2009, without escalation in the rent for three years. An addendum to the agreement was signed (08-05-2009) between AEPC and TUL stating that, except the aforesaid amendment all other terms and conditions of original lease agreement shall remain unchanged. TUL again, requested (February 2012) AEPC for considering reduction in monthly lease rent, reiterating prevailing

rates for similar accommodation in Bhikaji Cama Place ranging between ₹80/sq. ft. and ₹130/sq. ft. AEPC agreed (21 March 2012) to reduce the lease rent from ₹190 per sq. ft. to ₹165 per sq. ft. for a period of two years with effect from 1<sup>st</sup> April 2012 to 31 March 2014 and signed another addendum (03 March 2012) with TUL, accordingly. After expiry of the lease period on 31 March 2014, the AEPC has enhanced the lease rent from ₹165 per sq ft to ₹ 225 per sq. ft. with effect from 1 April, 2014 and the lease period has been extended for another three years.

5. During oral evidence, the Committee were informed that the Ministry ordered a special internal audit by CCA on AEPC accounts to establish source of funding for office at Bhikaji Cama Place. The audit observed that this office had been purchased out of the export promotion fund and Fashion Design cum Office Building Reserve Fund has no other source was available for purchase of this office in 1991.

### **FLAWED TENDERING AND BIDDING PROCESS**

6. The Committee find that the entire tendering process was flawed starting from the advertisement given in the newspapers for inviting bids, to the final decision taken for giving the office premises on lease rent to M/s TUL. The advertisements for inviting bids contained incomplete information such as, advertisement dated 18 August, 2007 did not indicate closing date of bidding and advertisement dated 02 September, 2007 gave the last date of bids up to 15 September 2007 without indicating date and time of opening of bids. Despite M/s TUL not participating in the tendering process, their bid received on 24 September 2007 was considered, even after opening of bids on 19 September 2007 and finally they were considered as the highest bidder. This puts doubts on the sanctity of the tendering process.

7. When asked why the advertisements dated 18 August 2007 and 02 September 2007, releases by the AEPC, not indicate closing date of bidding and the date and time of opening of bids respectively and the reasons as to why the Ministry had not taken timely action to resolve the discrepancies in the advertisement, the Ministry stated as under:

“The advertisements released on 18<sup>th</sup> August 2007 and 1 & 2 September 2007 in Times of India and in HT Estates respectively were short classified ads and not the detailed tender enquiry per se. Although closing date of quotation was mentioned in the classified ad published on 1 & 2 September 2007 but date and time of opening of bid was not mentioned in the advertisements as the same was not decided at the time of release of advertisements. Ministry was not aware of the advertisements released by AEPC for renting out their office space at Bhikaji Cama Place. AEPC is a Section 8 Company, registered under companies Act 2013 and governed by the Memorandum of Association and Articles of Association of the Company which authorize the Council to take such decisions with the approval of the competent authority in AEPC.”

8. When the Committee sought the reasons as to why the Ministry failed to take disciplinary action against the erring officials who had blatantly violated the natural law of justice by leasing a furnished office to an organization who had not participated in the tender at all, ultimately leading to a loss of ₹17.42 crore to the exchequer, the Ministry replied as under:-

“AEPC is a company governed by relevant provisions of the Companies Act. The matter was formally brought to the notice of the Ministry only on 15.12.2015 through the Audit para received from the Principal Director, Audit. The Ministry immediately ordered an internal audit of the accounts of AEPC and deputed an audit team. Ministry of Textiles also wrote to the Ministry of Corporate Affairs (MoCA) on 12.7.2016 and 4.7.2018 regarding the appointment of a Govt. Administrator in AEPC. Secretary, M/o Corporate Affairs, (MoCA), vide D.O. letter dated 24.8.2016, communicated that they have ordered inspection of the AEPC under section 206(5) of companies Act 2013 on 22.8.2016. Further, MoCA stated that on receipt of inspection report, action would be taken as per the provisions of the Companies Act. In D.O. letter dated 14<sup>th</sup> August, 2018 Secretary MoCA stated that the Inspecting Officer has submitted an interim inspection report.”

9. The Ministry further stated as under:-

“C&AG did not consult the files of Ministry of Textiles and conduct any entry and exit conferences. Ministry ordered a Special Internal Audit on 7.9.2015. CCA conducted special audit from 16.11.2015 to 2.12.2015 for the period 1.4.2003 to 31.3.2015 to measure the performance with reference to the criteria and guidelines laid down in sanction orders and also to identify the points of short comings and deviations from the established rules.

A special internal audit was conducted in July, 2018 for reconciliation of the single account of AEPC, in order to ascertain whether office space at Bhikaji Cama Place was purchased from the Government. It was observed by CCA that Council ultimately returned the principal amount of EMD and penalties / forfeitures of EMD. However, Council has earned ₹214.44 crore as interest on EMD till the time it is fully returned to the exporters / Government. Out of this amount, only ₹9.90 crore was deposited in the Government Account.

Thereafter, Ministry referred the matter to the Ministry of Corporate Affairs for appointment of Government Administrator and for superseding the Executive Body of the Council. In response, the Ministry of Corporate Affairs ordered an inspection u/s 206(5) of the Companies Act, 2013 in the matter of AEPC in August 2016. The Ministry of Corporate Affairs has also filed interlocutory application u/s 242(2) (k), 246 read with 336 of the Companies Act 2013 before the Hon'ble National Company Law Tribunal, Principal bench, New Delhi in August 2018 seeking inter alia, suspension of the Executive Committee of the AEPC and for freezing of the assets of the management of AEPC to prevent dithering of the asset in view of large scale mismanagement and diversion of funds.



Ministry vide D.O. 8/1/2016-EP dated 9.10.2018 to MoCA, has proposed the name of the officers from the MoT to be designated on the newly constituted 15 member board of AEPC to substitute the existing Executive Committee.”

10. When asked whether a tendering committee was constituted to formulate the tender documents, the Ministry replied as under:-

“Since formal tender was not issued in this case, therefore, tendering committee was not constituted. However a negotiation committee comprising following members was constituted by the Secretary General after discussion with Chairman:

- i. Sh Rakesh Vaid, Sr. Vice Chairman
- ii. Sh Praveen Nayyar, Chairman (Finance & Budget)
- iii. Sh Virendra Uppal – EC member
- iv. Director (HR) - Member Secretary

11. When asked whether Members of the Tendering Committee and those granting reduction and renewals the same over the years, the Ministry submitted as under:-

“Some of the Members were common in tendering committee and in other committees relating to the case. List of Members in various committees are attached.

1. Tendering Committee:
  - i. Sh. Rakesh Vaid, Sr. Vice Chairman
  - ii. Sh. Parveen Nayyar, Chairman (Finance & Budget)
  - iii. Sh. Virendra Uppal, EC Member
  - iv. Director (HR), Member Secretary
2. First Negotiation Committee in 2009
  - i. Mr. Virendra Uppal
  - ii. Mr. Parveen Nayyar
  - iii. Mr. HKL Magu
  - iv. Mr. Vimal Kirti Singh
3. Second Negotiation Committee in 2012
  - i. Dr. Saktivel
  - ii. Mr. HKL Magu
  - iii. Mr. Praveen Nayyar

#### **UNDUE POST CONTRACTUAL BENEFITS TO M/S TUL**

12. The Committee also find that AEPC extended a number of post contractual benefits to M/s TUL, such as (a) instead of enhancing the lease rent by 15 per cent of the basic lease rent in terms of the agreement after the stipulated period, the AEPC Report No. 11 of 2016 considered the request of M/s TUL for reduction in lease rent and reduced the rent twice: initially to September 190 per sq. ft. (w.e.f. 1<sup>st</sup> April 2009),

and thereafter to September 165 per sq. ft. (w.e.f. from 1<sup>st</sup> April 2012) without carrying out any market survey. This tantamount to an undue benefit of ₹16.79 crore to M/s TUL. (b) M/s TUL was paying property tax till 2009-10 in terms of clause 4 of the original agreement. Subsequently, considering the request of M/s TUL, AEPC agreed to undertake the liability of payment of property tax from year 2010-11 and onwards (c) One month's moratorium from 1<sup>st</sup> November, 2007 to 30 November, 2007 was allowed to the party without any provision for the same in the agreement. This resulted in loss of one month rent of ₹ 0.63 crore.

13. When asked as to the reasons behind for extending a number of post contractual benefits to M/s TUL, such as granting reduction in lease rent and reducing the rent twice in contravention to the term agreement, which stipulates the rent lease would be enhanced by 15 percent of the basic lease rent after the stipulated period, the Ministry stated as follows:-

“As per records, when Teesta Urja requested for reduction of rent in 2009 citing recession in the market and downfall in rentals, AEPC conducted an informal market survey to ascertain their claim. The Executive Committee evaluated consequences of cancellation of agreement with Teesta Urja, possible rent in the prevailing market scenario and revenue loss to AEPC if they would have gone for fresh advertisement. Taking all the above factors into account AEPC decided “to negotiate the rent with Teesta Urja in the larger interest of the organization.”

Teesta Urja again requested for rent reduction in 2012 to Rs 130 / Sq ft citing lower market rents in Bhikaji Cama place and also their financial loss due to damage to their projects in Sikkim after severe earthquake in 2011. AEPC again conducted a market survey and took a “considerate view to negotiate rent at Rs 165 Sq ft.”

14. With regard to the rationale behind awarding the extension of contract to M/s TUL at ₹ 225 per sq. ft. which still lower than the original contract for ₹ 270 sq. ft, the Ministry stated as under:-

“AEPC conducted a market survey again in 2014 just before expiry of lease agreement with TUL and found out that the rent for commercial space was ranging between 100-170/sq.ft. in Bhikaji Cama Place. Accordingly, AEPC estimated Rs 225/ sq ft. From the papers, it is seen that AEPC also tried to lease out this office space to SBI @Rs 225/sq ft in 2014 through a bid but did not succeed. Therefore they decided to make the offer to the existing tenant i.e., M/s TUL.”

15. During oral evidence on the subject, the representatives of the Ministry also stated as under:-

“If one looks at the procedure, one would say that something wrong has happened because a person who did not apply within time was entertained. He got the bid because of paying the highest rent. He paid that rent for only one year and then he started asking them for reducing it. They kept reducing it at their request. So, this sounds something which is generally not acceptable in public functioning. But, when I see the trend, I find that they reduced it in

2009 from ₹270 to ₹190; in 2012 from ₹190 to ₹165 and they also raised it in March 2014 to ₹225. The audit had begun on 25th May, 2016. When I look at this circumstance, I find that had they wanted to favour this company, then they would have reduced it continuously. But, while examining them at my level, I asked them as to why they had reduced it. The AEPC said that at that point of time, there was a glut in the market time all around and hence the rents had come down. So, since the rents had come down, they had either to leave it vacant or to continue with the tenant. They said that at this rent, they would not have got a tenant. So, they chose to continue with the tenant.”

16. The representatives of AEPC also stated as under:-

“The main matter of contention was the Bhikaji Cama Place premises for which we have given on rent that was further reduced from ₹270 to ₹190 and ₹190 to ₹165. My submission is that we have taken all precautions as EC because we have been following the Companies Act; number of Articles of the Executive Committee or the Council. We were not following the GFR Rules. The rent is not the money given by the Government. Since the rent which we are receiving was not going to be deposited in the Consolidated Fund of India, there was no question of following the GFR Rules. But, yes, last time, as the hon. Members of Parliament mentioned, we are seeing to it that we follow GFR Rules in future. Although, we do not come under the purview but we will still follow it. It is a procedure lapse which I have admitted.”

17. Noting that the Ministry of Corporate Affairs have submitted an interim report. The final report is awaited. The Ministry of Corporate Affairs have also filed an interlocutory application in NCLT for superseding the Executive Body of the Council, as also for freezing of its assets, the Committee sought to be apprised of the findings of the interim report, the Ministry of Textiles replied as under:-

“Ministry of Corporate Affairs ordered inspection into the affairs of M/s. AEPC on 22.8.2016. The inspectors appointed have submitted interim report on 1.8.2018 & 14.9.2018. The irregularities observed by Inspectors are as under:-

- i) AEPC has not complied with the directions of MoT issued under Article 101 with regard to renting of premises, which is not an object of the Council. Accordingly, regulatory action for disobedience of Government directions by the company and officers had been suggested in the first interim report.
- ii) That the EC of AEPC be suspended and in terms of provisions of Section 242(2)(k), 15 (fifteen) persons be appointed as directors, to manage the affairs of the company and such directors may report to the Hon'ble NCLT on such matters as it may direct.
- iii) In the first interim report, the Inspecting officers also reported regarding the loss of ₹17.42 crore caused to the company by extending undue benefit to a Private Party i.e. Teesta Urja Limited by letting out the office space at Bhikaji Cama Place, New Delhi at reduced rate which amounted to failure on the part of directors to discharge their fiduciary

duties to the company for generating revenue and managing the affairs of the Company.

- iv) The company invested the EMD in Fixed Deposit and has earned interest which has been reflected in the Books of Accounts as other income, which is required to be refunded to Consolidated Fund of India (CFI).

Ministry of Textiles conducted special internal audit in November-December 2015 for the period 2003-2015. On the basis of the observations of internal audit conducted in November, 2015 and observations of the then SG, AEPC in June, 2016, Ministry referred the matter to the Ministry of Corporate Affairs in July 2016 to appoint "Government Administrator" and for superseding the Executive Body of the Council. In response, the Ministry of Corporate Affairs ordered an inspection u/s 206(5) of the Companies Act, 2013 in the matter of AEPC in August 2016. The Ministry of Corporate Affairs has also filed interlocutory application u/s 242(2) (k), 246 read with 336 of the Companies Act 2013 before the Hon'ble National Company Law Tribunal, Principal bench, New Delhi in August 2018 seeking inter alia, suspension of the Executive Committee of the AEPC and for freezing of the assets of the management of AEPC to prevent dithering of the assets in view of large scale mismanagement and diversion of funds.

Ministry also ordered an internal audit in July 2018, for reconciliation of the accounts of AEPC and deputed an audit team.

Ministry of Textiles also wrote to the Ministry of Corporate Affairs (MoCA) on 12.7.2016 and issued various reminders and finally on 4.7.2018 regarding the appointment of a Govt. Administrator in AEPC. Secretary, M/o Corporate Affairs, (MoCA), vide D.O. letter dated 24.8.2016, informed that they have ordered inspection of the AEPC under section 206(5) of companies Act 2013 on 22.8.2016. Further, MoCA stated that on receipt of inspection report, action would be taken as per the provisions of the Companies Act. In D.O. letter dated 14th August, 2018 Secretary MoCA informed that the Inspecting Officer has submitted an interim inspection report. Ministry vide D.O. 8/1/2016-EP dated 9.10.2018 to MoCA, has proposed the name of the officers from the Ministry of Textiles to be designated on the newly constituted 15 member board of AEPC to substitute the existing Executive Committee.

AEPC is a Section 8 Company, registered under Companies Act 2013 and governed by the Memorandum of Association and Articles of Association of the Company which authorize the Council to take such decisions with the approval of the competent authority in AEPC. The Executive Committee of AEPC is empowered to take decisions under the Memorandum of Association and Articles of Association of AEPC."

- 18. During oral evidence, the Committee were apprised of the present status on the matter. The representatives of the Ministry stated as under:-

“After that letter was referred to the Ministry of Corporate Affairs, which actually had ordered an inspection. The interim report of that inspection has already come and it has been shared with us. Those findings, I would share with the PAC right now. In the meanwhile, what has happened is, there was a case filed in NCLT because if any action which we were actually planning to take and we had suggested that the Committee should be superseded and there should be an administrator which needs to be appointed. That matter was referred to the Ministry of Corporate Affairs which had then to go to the NCLT. In the interim, what has happened was there was a case filed in the NCLT and an interlocutory application got filed by the Ministry of Corporate Affairs saying exactly the same thing. That hearing is actually slated for the 9th of October where we have also supported the same measure which has been suggested by the Ministry of Corporate Affairs. From the inspection report, I would actually read out – the Ministry of Corporate Affairs were requested to take necessary action for streamlining functioning and management of AEPC. MoCA had conducted an inspection and has put out an interim report. Investigating Officer has concluded that the company’s response is not tenable and the officers on default are liable for mismanagement for letting out the office space at reduced rate and thereby causing loss of revenue to the company. The interim report has further stated, and I quote, that the company failed to discharge their fiduciary duty to the company for generating revenue and managing the affairs of the company. The said undue benefit extended to a private party is an act of mismanagement of company fund and invites corrective measures. While I say this, I would also like to read out what the AEPC has disputed and the following grounds on which they have disputed.

These are that the earnest money deposit/bank guarantee was performance guarantee liable to be refunded if quota obligations are fulfilled. Therefore, neither EMD/BG nor interest on this can be held as government money.

Second point which they have said is, only forfeited EMD can be revenue receipt which was already refunded in the CFI. They have actually refunded about ₹345 crore.”

19. The representatives of the Ministry of Corporate Affairs also stated as under:-

“I felt that the gravity was adequate for the Government to intervene in the matter and we agitated this before the NCLT very thoroughly and effectively in the last hearing and it has been fixed for aid. In the meantime, two interim reports had come. The law is such that, sometimes, completion of an investigation report where everything is ultimately conclusively established could take time and the gestation period could be there. In order to see that in the interim period, people who may have failed to discharge their fiduciary duties do not get away. There is an interim prayer that they supersede the entire board and have a Government-appointed board. The second prayer is related to non-nominee directors. If there is a finding of causing wrongful gain to somebody and thereby wrongful loss to the State Exchequer, we have asked that there should be freezing of accounts of certain directors. These two prayers are pending.”

20. When the Committee sought to be informed of the internal monitoring mechanism, the Ministry stated as under:-

“(a) The Internal Audit wing conducts the audit of 347 units of commerce and textiles with varying frequency of 1, 2, 3 & 4 years. Every year 154 units of both the ministries becomes due for audit but with a meager staff of 12 persons only 60-70 units are audited annually.

(b) As per civil accounts manual, internal audit conducts the audit of the implementing agencies for various schemes and programmes of the Ministry/Department. In this case AEPC was granted various grants from Ministry of Textiles and Commerce under various scheme i.e. MDA/MAI/DISHA etc. IAW had pointed out many omissions and errors in A/cs of grants and recovered huge amounts from AEPC in its audit reports. Since Internal Audit is attest audit. Therefore, it is not always feasible for an Audit party to figure out all the omissions and errors of an auditee during the period of audit.”

## **PART II**

### **OBSERVATIONS/RECOMMENDATIONS**

On detailed examination of Para No. 17.1 of C&AG Report 11 of 2016 on the subject “Undue benefit to a private party”, the Committee find gross mismanagement of Apparel Export Promotion Council (AEPC), a body under the Ministry of Textiles, has resulted in loss of ₹17.42 crore to the company. The Committee find that the Executive Committee of AEPC extended unfair benefit, while renting out office accommodations at Bhikaji Cama Place to M/s TUL at minimal rates and granted extension of contract without resorting to competitive bidding to attract other potential parties willing to pay higher rent rates. The Committee also find that the Ministry of Textiles had not taken immediate necessary measures to resolve the aforesaid discrepancy highlighted by audit. The recommendations/observations of the Committee are discussed in the succeeding paragraphs.

2. Noting the progression of events from notification of advertisement *via* short classified ads in newspapers without detailed tender enquiry, incomplete information on opening and closing tender dates, awarding rent lease to a private party i.e M/s TUL despite it being non-party in the bidding process, grant of rent in favour of the private party and extension of rent contract to the same party without seeking response of other potential bidders etc., the Committee opine that the Executive Committee of AEPC has not been impartial and intentionally favoured the private party in awarding the rent contract. The Committee feel that the Ministry remained a mute spectator instead of taking the officials of AEPC to task. The Committee note that matter was formally brought to the notice of the Ministry by Audit on 15.12.2015. However, the Special Internal Audit ordered by the Ministry for the period 1.4.2003 to 31.3.2015 to evaluate the performance of AEPC and to identify the points of shortcomings and deviations from the established rules could not bring out the lapses in awarding rent contract to the private party. The Committee note from the submission of the Ministry that due to meagre staff strength, Internal Audit Wing could audit only less than half of the units as prescribed in a year and since internal audit is only an attest audit, it is not possible for it to figure out all omissions and errors of an auditee during the period of audit. The Committee are shocked to note that instead of strengthening its Internal Audit Wing, the Ministry is trying to cover up its inadequacies. The Committee desire that adequate staffing in the Internal Audit Wing may be done urgently to make sure that internal audits are conducted as per the schedule and the terms of reference for Internal Audit of the organizations in the Ministry may be reassessed to ensure that all the transactions above a threshold value are invariably audited. Further, a system of strong internal controls and reporting may be evolved to ensure transparent and fair dealings.

3. The Committee note that the AEPC is a Company registered under Section 8 of Companies Act. Further, the Committee find from the submission

of AEPC that since the rent money, collected from M/s TUL for leasing an office space at Bhikaji Cama Place, was neither received from Government nor to be deposited in Consolidated Fund of India, the question of following General Financial Rules did not arise. The Committee do not concur with the above statement of AEPC as being recognised by the Government it discharges state like functions whilst providing services to its members and therefore, is expected to emulate principles of financial propriety enshrined in the GFRs. The Committee while noting that AEPC had purchased this office out of the Export Promotion Fund and Fashion Design cum Office Building Reserve Fund in 1991, with grant from the Government of India, opine that the Executive Committee of AEPC has miserably failed in enforcing the relevant financial rules and therefore, their role in the same be inquired into and responsibility be fixed.

4. The Committee find that the out of the 32 Members/Exporters of the elected Executive Committee, three members are Government Nominees. Observing that these Government Nominees are purposely nominated in the Executive Committee to safeguard the interests of the Government and public money, the Committee are unable to comprehend the inability of these Government Nominees to prevent the apparent mismanagement of funds and decisions taken in favour of a private party which resulted in a huge loss. The Committee, therefore, desire that explanation of the Government nominees for their inaction in the whole process may be called for an appropriate action.

5. The Committee note that the Chief Controller of Accounts (CCA), pursuant to special internal audit, has observed that the Council returned the principal amount of Earnest Money Deposit (EMD) and penalties / forfeitures of EMD. However, Council had earned ₹214.44 crore as interest on EMD till the time it is fully returned to the exporters / Government. Out of this amount, only ₹9.90 crore was deposited in the Government Account. Thereafter, the matter was referred to the Ministry of Corporate Affairs for appointment of Government Administrator and for superseding the Executive Body of the Council. In response, the Ministry of Corporate Affairs had ordered an inspection u/s 206(5) of the Companies Act, 2013 in the matter of AEPC in August 2016. The Ministry of Corporate Affairs has also filed interlocutory application u/s 242(2) (k), 246 read with 336 of the Companies Act 2013 before the Hon'ble National Company Law Tribunal, Principal bench, New Delhi in August 2018 seeking inter alia, suspension of the Executive Committee of the AEPC and for freezing of the assets of the management of AEPC. The Committee, however, observe that the matter was taken up by the Ministry only after their intervention. The Committee desire that the interest on EMD may be deposited in Government Account in a time bound manner. Disheartened to note the lackadaisical approach of both the Ministry of Textiles in monitoring the affairs of AEPC and Ministry of Corporate Affairs for taking more than two years in submitting an interim report, the Committee desire that a robust mechanism for speedy detection and timely processing of cases of apparent irregularities be developed by the Ministries/ Departments of Government of India so that such cases are finalized at the earliest .



6. The Committee note that from the interim report of the Ministry of Corporate Affairs that AEPC had not complied with the directions of the Ministry of Textiles, issued under Article 101 with regard to renting of premises, which resulted in the loss of ₹17.42 crore to the company. The report stated that extending undue benefit to a Private Party i.e. M/s Teesta Urja Limited in letting out the office space at Bhikaji Cama Place, New Delhi at reduced rate amounted to failure on the part of directors to discharge their fiduciary duties to the company for generating revenue and managing the affairs of the Company. The Interim report suggested regulatory action for disobedience of Government directions by the company and officers. The interim report also recommended that the Executive Committee of AEPC be suspended and in terms of provisions of Section 242(2)(k), 15 (fifteen) persons be appointed as directors, to manage the affairs of the company and such directors may report to the National Company Law Tribunal (NCLT) on such matters as it may direct. The Committee desire to be apprised whether responsibility had been fixed against officials responsible for the lapses in discharging fiduciary duties and appropriate action taken against the officials. The Committee, noting that an interlocutory application is pending with the NCLT with regard to the management and functioning of AEPC, desire to be apprised of the arrangements made by the Ministry to oversee the functioning of AEPC before the decision on the matter is taken by the NCLT. The Committee also desire that the details of the outcome of the matter in NCLT may be intimated to the Committee as and when it is taken.

7. The Committee find that in response to the query regarding the composition of the tendering committee, the Ministry stated that since formal tender was not issued, tendering committee was not constituted. However, while replying to another query, the Ministry has given the list of the members of tendering committee, first negotiation committee and second negotiation committee respectively. Further, the Ministry has stated in its reply that the matter was formally brought to the notice of the Ministry only on 15.12.2015 through the audit para received from the Principal Director, Audit and the Ministry immediately ordered internal audit of the accounts of AEPC and deputed an audit team. However, as per Ministry's own submission the special internal audit for the period 1.4.2003 to 31.3.2015 was ordered on 7.9.2015 and the internal audit of the accounts of AEPC was conducted only in July 2018 after being raised by the PAC. The Committee take strong exception to the callous approach in responding to their queries and contradictory replies sent by the Ministry which has seriously hampered the examination of the subject by them. The Committee desire that the Secretary may look into the matter and take appropriate action against those responsible for such replies. Further, the Committee desired to be apprised of the correct position within one month of the presentation of the Report to the House.

-----XXXXXX-----