

**PUBLIC ACCOUNTS COMMITTEE
(1968-69)**

(FOURTH LOK SABHA)

EIGHTIETH REPORT

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 28th Report (Fourth Lok Sabha) on Action taken on their First-Report (Fourth Lok Sabha) regarding purchase of Road Rollers.]



**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1969/Vaisakha, 1891 (S)

Price : Re. 0.95 paise

336.3957/1

40

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PUBLIC ACCOUNTS COMMITTEE

(1968-69)

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21. Shri N. R. M. Swamy
22. Shri Tarkeshwar Pandey

SECRETARIAT

Shri Avtar Singh Rikhy—*Joint Secretary*

Shri K. Seshadri—*Under Secretary*

•Declared elected on 19th Augus: 1968 vice Shri M. M. Dharia, who resigned from the Committee.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this 80th Report on the Action Taken by Government on the recommendations of the Public Accounts Committee contained in their 28th Report (Fourth Lok Sabha) an action taken on 1st Report (Fourth Lok Sabha) relating to purchase of Road Rollers.

2. On 12th June, 1968, an "Action Taken" Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with following Members :

1. Shri D. K. Kunte—*Convener*.
2. Shri C. K. Bhattacharyya.
3. Shri K. K. Nayar.
4. Shri Narendra Kumar Salve.
5. Shrimati Tarkeshwari Sinha.
6. Shri N. R. M. Swamy.

3. The draft Report was considered and adopted by the Sub-Committee at their sitting held on 23rd April, 1969 and finally adopted by the Public Accounts Committee on 28th April, 1969.

4. For facility of reference the main conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main recommendations/Observations of the Committee is appended to the Report (Appendix).

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

M. R. MASANI

Chairman,

Public Accounts Committee.

NEW DELHI:

April 28, 1969/Vaisakha 8, 1991 (S)

CHAPTER I

REPORT

1.1. This Report of the Committee deals with action taken by Government on the recommendations/observations contained in their 28th Report (Fourth Lok Sabha) on action taken on their 1st Report (Fourth Lok Sabha) regarding Purchase of Road Rollers, which was presented to the House on 30th April, 1968.

1.2. In their 1st Report (Fourth Lok Sabha), the Public Accounts Committee had commented upon various lapses in the Purchase of Road Rollers by the Director General Supplies and Disposals from a private firm M/s. United Provinces Commercial Corporation, Pvt. Ltd. during the period July, 1963 to September, 1963. The Committee had pointed out the following unsatisfactory features of the case.

- (i) Orders were placed on an unregistered firm without verification of its financial standing and production capacity and without insisting on a security deposit.
- (ii) The firm was allowed relaxation in standard terms of payment enabling them to draw 90 per cent of the cost of a Road Roller on inspection without any proof of despatch.
- (iii) There was failure to carry out a review of the relaxed terms of payment after 6 months as contemplated in spite of complaints from the Pay and Accounts Officer and consignees.
- (iv) There was failure to carry out effective inspection of Road Rollers.

1.3. The cumulative result of the series of lapses was that the firm drew 90 per cent advance payment in proof of inspection and delayed the despatch of Road Rollers. There were 403 Road Rollers outstanding from the firm for which an advance payment of Rs. 1.85 crores approximately has been made.

1.4. The replies furnished by the Government in respect of the various recommendations made by the Committee in their First Report (Fourth Lok Sabha) have been dealt with in their 28th Report (Fourth Lok Sabha). Out of 35 recommendations contained in the 28th Report (Fourth Lok Sabha) action taken notes/statements have been received in respect of 34 recommendations. A reply is still awaited in respect of recommendation at S. No. 30.

1.5. The action taken notes/statements in respect of the recommendations contained in the 28th Report (Fourth Lok Sabha) have been categorised under the following heads :

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

S. Nos. 4, 5, 16, 18, 19, 20, 21, 23, 33 and 34 and S. No. 28 of 1st Report (Fourth Lok Sabha).

- (ii) *Recommendations/observations which the Committee do not desire to pursue in view the replies of Government : S. No. 3.*
- (iii) *Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration :*
S. Nos. 1, 2, 6, 7—11, 13, 14, 15, 31, 32 and 35.
- (iv) *Recommendations/observations in respect of which Government have furnished interim replies :*
S. Nos. 12, 17, 22, 24, 25, 26, 27, 28 and 29.

1.6. The Committee will now deal with action taken on some of the recommendations.

Investigation of the case and action taken against the officers and the firm—Paragraphs 1.8 and 1.19 (S. Nos. 2 and 6).

1.7. Emphasizing the need for expeditious investigation of the case by the Central Bureau of Investigation and bringing the guilty to book, the Committee made the following observations in paragraphs 1.8 and 1.19 :

“1.8 : The Committee are not happy with the progress made in the case by the Central Bureau of Investigation. Considering that the firm had drawn advances amounting to Rs. 1.85 crores, the case should have been investigated with the utmost expedition and finalised without delay.”

“1.19 : While the Committee note the Ministry's anxiety to recover the amount of about Rs. 2 crores unauthorisedly kept by the party, they cannot too strongly stress that, as Government are responsible for maintaining the highest traditions of integrity and public conduct, it is their foremost duty to ascertain whether any fraudulent practices liable to criminal proceedings have been committed and to spare no efforts to bring the guilty to book as a deterrent to others.”

1.8. In their reply dated the 28th August, 1968, in respect of paragraph 1.8 the Ministry of Home Affairs stated :

“The investigation in this case has been conducted by the Central Bureau of Investigation with due expedition. But from the investigation point of view, it is a very complicated and difficult case involving colossal work. It involved about 100 contracts and 900 Road Rollers. The fraud was spread over a period of three years. Documents involved ran nearly to two lakhs. In respect of each contract, corresponding record of the Directorate General of Supplies and Disposals, indentors and consignors had to be obtained and scrutinized. The consignee witnessed who had to be traced and questioned spread all over the country. A large number of public servants and private persons who are involved as accused have to be questioned in detail. There was strike in the factories of M/s. U.P.C.C. and M/s. Agrind Fabrications. The employees, who form bulk of the witnesses in this case, have gone out of Calcutta in search of

new jobs. It took considerable time to ascertain their whereabouts and examine them. There was also difficulty in locating the Road Rollers which are kept stationed at various parts of the country. They had to be inspected and panchnama prepared at the places where they were located. The investigation was complicated as each Road Roller was connected with two or three Accepted Tenders and it was very difficult to inter-link the A/Ts. Expert opinion had also to be obtained on the tampering of the Engine Numbers. All these factors contributed to the time taken in the investigation of the case.

Investigation in respect of 23 instances is complete. The Legal Officers who were consulted by Central Bureau of Investigation have suggested further investigation on a number of points so as to make a single good conspiracy case. This is being complied with now and charge sheet will be filed shortly."

"As regards the misconduct on the part of the Officers interim report giving the result of enquiries has been submitted to Directorate General of Supplies Disposals authorities in respect of 10 senior officers and further report will be submitted as soon as final decision is taken."

1.9. In a reply dated the 23rd December, 1968, in respect of paragraph 1.19, the Department of Supply stated :

"In order to ascertain whether any fraudulent practices were committed and also to take action against those guilty of adopting such practices, the matter was reported for detailed and complete investigations to C.B.I. After completion of their investigations CBI have since filed a complaint (charge-sheet) in the court of Judge, 4th Additional Special Court, Calcutta. on 26-8-68 against the Directors and employees of M/s. U.P.C.C. Pvt. Ltd. and the Government officials who were alleged to have adopted fraudulent practices in this case. A copy of the charge sheets is enclosed.

1.10. In their further reply dated the 6th February, 1969, the Ministry of Home Affairs stated :

"1095 Road Rollers were involved in this case as against 90 reported earlier. As suggested by law officers of CBI, further investigation was taken up by CBI and as a result of sustained investigation sufficient evidence was collected to establish that the Chairman and Directors of M/s. U.P.C.C. Pvt. Ltd., in collusion with their subordinates, both of M/s. U.P.C.C. Pvt. Ltd. and M/s Agrind Fabrications Ltd. (a sister concern) had conspired to defraud the Government by putting up the same Engine for inspection more than once and obtained 90 per cent payment. In some cases bogus inspection notes were got signed by the Inspecting Staff without producing any road roller for

inspection. After completing the investigation and obtaining the opinion of law officers of the C.B.I., it was decided to prosecute the following 17 accused under section 120-B/420 IPC and 5(2) of the Prevention of Corruption Act, Section 420, 477-A IPC and 5(2)/5(1) (d) of Act II of 1947.

- (1) Shri S. M. Wahi, Chairman and Director, M/s. U.P.C.C. Private Limited.
- (2) Shri R. N. Wahi, Chief Executive and Director, M/s. U.P.C.C. Private Limited.
- (3) Shri K. M. Wahi, Director, M/s. U.P.C.C. Private Limited.
- (4) Shri R. C. Malhotra, General Sales Manager, M/s. U.P.C.C. Private Limited.
- (5) Shri P. K. Mitra, Sales and Service Manager, M/s. U.P.C.C. Private Limited.
- (6) Shri K. N. Srivastava, Accountant, M/s. U.P.C.C. Private Limited.
- (7) Shri B. R. Joshi, Assistant Finance Manager, M/s. U.P.C.C. Private Limited.
- (8) Shri P. B. Pakrasi, Controller of Finance, M/s. U.P.C.C. Private Limited.
- (9) Shri S. K. Sen Gupta, Manager, M/s. Agrind Fabrications Limited.
- (10) Shri N. Roy, Superintendent, Sales & Service, M/s. Agrind Fabrications Ltd.
- (11) Shri R. N. Kar, Production Manager, M/s. Agrind Fabrications Limited.
- (12) Shri N. L. Mukherjee, Superintendent Assembling Deptt. M/s. Agrind Fabrications Limited.
- (13) Shri T. Dass Gupta, General Foreman, M/s. Agrind Fabrications Ltd.
- (14) Shri Khalil Ahmed, Foreman, M/s. Agrind Fabrications Ltd.
- (15) Shri B. Guha Roy, Foreman, M/s. Agrind Fabrications Ltd.
- (16) Shri H. A. Romer, Inspecting Officer, D.G.S.&D.
- (17) Shri S. B. Dutta, Inspecting Officer, D.G.S.&D.

"After obtaining necessary sanction, a complaint (Chargesheet) has been filed against the above accused in the Court of the Fourth Additional Special Judge, Calcutta on 27-8-1968. The case is now pending trial."

"As further investigation has also shown that four more inspecting officers of D.G.S.&D. were similarly involved in the above fraud, SP's Report along with the draft sanction order has been sent to the Ministry of Works, Housing and Supply in respect of the Inspecting Officer

on 31-10-68 and to Ministry of Industrial Development and Company Affairs in respect of the other in January, 1969, with a copy to Central Vigilance Commission requesting for sanction for prosecution of the Inspecting Officers. Further action will be taken on receipt of the necessary sanction."

1.11. The Committee find that in answer to starred Question No. 942 in Lok Sabha on 8th April, 1969, the Minister of Industrial Development, Internal Trade and Company Affairs stated the latest position of the case as follows :

"CBI who were asked to make detailed investigations into the matter, have since completed their enquiry. A charge sheet against certain Directors and employees of the U.P.C.C. (P) Ltd., and two Inspecting Officers of Government has already been filed by the CBI before the Judge, Fourth Additional Special Court, Calcutta. It is also proposed to file a charge sheet against four more Assistant Inspecting Officer/Inspecting Officers. A report recently received from the C.B.I. recommending departmental action and action deemed fit against certain officials is under examination."

1.12 The Committee note that Government have filed a charge sheet against 17 accused including the Chairman and Directors of M/s U.P.C.C. Pvt. Ltd. and Government officials with whose collusion the firm allegedly defrauded the Government by putting up the same engine for inspection more than once and obtained 90% of the contract price as advance .

1.13. The Committee also note that it is proposed to file a charge sheet against four other Assistant Inspecting Officers/Inspecting Officers. The Committee desire that charge sheets against them should be finalised and filed without delay.

1.14. The Committee need hardly stress that the prosecution should be vigorously pursued so as to bring to book all those who have during investigation been found to be responsible for defrauding Government of the sum of Rs. 1.85 crores.

Pending Cases involving vigilance/disciplinary aspect—Paragraphs 1.2 and 2.59 (S. Nos. 1 and 35).

1.15. When the Committee considered the replies of Government in respect of their recommendations contained in their First Report (Fourth Lok Sabha) they had not been furnished with replies in respect of 27 recommendations, involving vigilance aspects.

1.16. The Committee made the following observations in paragraph 1.2 of their 28th Report :

"1.2 : The Committee regret that so far replies have been furnished by Government in respect of only 40 recommendations out of 67 and that the latest communications in respect of some of the vital recommendations were received as late as the beginning of this month."

1.17. In their reply, dated 31st January, 1969 the Department of Supply have stated :

“The replies of the Government to the remaining 27 recommendations which involve vigilance aspects could not be sent as the matter is still under investigation and the relevant records are with C.B.I. The C.B.I. have been asked to expedite their investigation.”

1.18. In paragraph 2.59, the Committee made the following observations :

“The Committee also find from the replies of the Department of Supply in respect of the Recommendations contained in Paras 3.9, 3.72, 4.49, 4.75 to 4.78, 5.10—5.12, that the vigilance aspect fixing of responsibility in these cases is under examination. The Committee desire that examination of these cases should be finalised without delay so that the persons found at fault do not escape disciplinary action.”

1.19. In their reply the Department of Supply have stated :

“The disciplinary aspect will be examined as soon as the relevant records are made available by the Central Bureau of Investigation.”

1.20. The Committee desire that, in the light of findings of the Central Bureau of Investigation, Government should finalise their decision about taking disciplinary and other action against all those held responsible for lapses in this case.

*Present position regarding Government's Claims against the firm—
Paragraphs 1.36 and 1.37 (S. Nos. 14 and 15)*

1.21. Government have instituted 23 suits against 23 Acceptances of Tenders in the Delhi High Court against the firm for specific performance of the contracts and/or recovery of the amount over-claimed by the firm with interest thereon. In the last week of March, 1968, the firm offered to deliver the outstanding Road Rollers to Government in instalments. Referring to the offer of the firm, the Committee made the following observations in paragraphs 1.36 & 1.37 :

“The Committee note that the firm have offered to supply road rollers in instalments and that, as a token of their *bona fides*, they have submitted to Government shares of the aggregate face value of Rs. 20 lakhs pertaining to allied concerns held either in the name of the partnership concern (M/s. U.P.C.C.) or in the name of individual directors. The Committee note that the arrangement with the firm would cease to exist “as and when the interim injunctions in respect of blacklisting orders etc. were vacated by the High Court.” The Committee would

not like to go into the detailed implications of this proposal as they have no doubt that Government will take proper care to safeguard public interest. They would, however, like to sound a note of caution and to stress that, while taking a decision on the offer of the firm, the Government should keep in view the following aspects of this case:—

- (i) The legal implications of the proposal made by the firm.
- (ii) The effect that such an arrangement would have on the suits filed by Government and on the launching of criminal proceedings against the firm or relevant individual in a court of law, particularly, when it is understood that investigation in seven cases have almost been finalised.
- (iii) Whether the requirement of road rollers by the indentors still holds good and how far these road rollers to be supplied by the firm will meet requirements, particularly in view of the past experience of defective rollers supplied by the firm and the reported poor after sale-service. (Cf. Paras 4.7, 4.10 and 4.25 of First Report—4th Lok Sabha).
- (iv) The implications of the acceptance of road rollers offered by the firm on the extension of the date of delivery of contracts, the recovery of interest charges (which worked out to Rs. 29 lakhs on 31.12.1966) for the advance retained by the firm and the recovery of damages on account of losses (actual or potential) suffered by the indentors on accounts of delay/non-supply of road rollers.
- (v) Whether acceptance of the proposal may enable the firm to misrepresent the position either to the other Ministries of Government of India or to State Governments or Statutory/autonomous authorities.
- (vi) The present Intrinsic value and the genuineness of the shares offered by the firm as a security.
- (vii) an examination of the lien on the amount of Rs. 20 lakhs for the purchase of shares out of Rs. 50 lakhs advanced by the company in advance of the allotment of the same by Assam Sillimanite Limited.
- (viii) Whether the firm will be in a position to fulfil their promise to supply road rollers in the light of their past performance.
- (ix) Its impact on the request made by the firm for permission to purchase shares of the Indo-Burma Petroleum Co. Ltd. at a time when the firm have not paid back the advance of Rs. 1.85 crores unauthorisedly drawn by them and interest thereon either in cash or by the supply of road rollers.”

(Paragraph 1.36)

"1.30. The Committee also find that in a letter dated 4th November, 1967, to the Minister of Supplies, M/s. UPCC Pvt. Ltd. state *inter alia* as under :

"Additionally, from Rs. 50.00 lakhs advanced by UPCC Pvt. Ltd. to Assam Sillimanite Ltd., for the Ramgarh Refractory Project, UPCC Pvt. Ltd. expects to get shares at least to the extent of Rs. 20.00 lakhs."

"1.31. The Committee consider that Government have not carried out a thorough investigation into the manner in which UPCC (Pvt.) Ltd. have disposed of an amount of Rs. 1.85 crores received by them as advance. It is all the more disturbing that when the firm approached Government on more than one occasion with offers of shares of their allied or subsidiary companies as security or with the request to permit them to purchase shares of Indo-Burma Petroleum Co. Ltd., Government did not question them closely about the source of their funds."

"1.32. In view of these facts the Committee are not able to appreciate the plea that the UPCC (Pvt.) Ltd. do not have enough liquid assets to pay back the advance of Rs. 1.85 crores (together with interest thereon) which has been retained by them in an unauthorised manner without duly delivering road rollers."

In their reply to Paragraph 1.87 (S. No. 7), the Department of Supply stated :

1.25. The comments of the Department of Company Affairs who have examined this matter are reproduced below :

"On the request of the Department of Supply, an immediate inspection of account books and records of UPCC (Pvt.) Ltd. was taken up under Section 209(4) of the Companies Act, 1956..... It would also appear..... that the account books of the Company made available for inspection were not complete and no audited balance sheet is available after 1965. It would, therefore, be appreciated that in the absence of complete and up-to-date books it is not possible for the Department of Company Affairs to ascertain as to how the amount of Rs. 1.85 crores had been disposed by UPCC (Pvt.) Ltd. However, the available details have already been furnished to the Department of Supply."

"At page 79 of the Report under the heading 'action taken by Government', it is mentioned that they have also received three reports from the Department of Company Affairs on the assets of the firm. These reports cover the period up to 31.12.65 only. The Department of Company Affairs could not compile the financial position of the two companies for 1966 and 1967, as the accounts books of both M/s. UPCC (Pvt.) Ltd., and M/s. Agrind Fabrications have not been completely written after December, 1965, and the published balance sheets are only up to October, 1965 in the case of M/s. Agrind Fabrications and up to 31.12.65 in the case of UPCC (Pvt.) Ltd."

“Necessary action for prosecution in respect of defaults for non-filing of balance sheet as at 31.12.66 has already been initiated by the Registrar of Companies.”

“The complete and up-to-date account books and records of the partnership firm were also not made available for ascertaining the use of funds by the partnership firm said to have been advanced by the UPCC (Pvt.) Ltd.”

“In the absence of books of accounts and Balance sheets, for subsequent years to those ending on 31.12.1966 and 31.12.1967, it is difficult to ascertain the requisite information.”

1.26. In their reply dated the 1st March, 1969, the Department of Company Affairs have stated the following position regarding prosecution in respect of the defaults for non-filing of balance sheets by the firm :

“The Registrar has informed that in the case of UPCC (Pvt.) Ltd. prosecution in respect of defaults for non-filing of balance sheets as at 31st December, 1966 was launched on 19th June, 1968.

The defaults reported by the Registrar of Companies, Calcutta in respect of UPCC (Pvt.) Ltd. were under section 210(5) and 220(3) of the Companies Act, 1956. in respect of its balance sheet as at 31.12.66. In the case of Agrind Fabrication Ltd. also the defaults committed by the Company were under the provision of section 210(5) and 220(3) of the Act for its balance sheet as at 30th September, 1966.”

“The prosecution case [UPCC (Pvt.) Ltd.] is still pending with the court and the next date of hearing has been fixed on 26th February, 1969. Further the Company has gone into liquidation by Hon'ble High Court's Order dated 4.6.68 and the Official Liquidator has been appointed as Liquidator of the Company.”

The company (Agrind Fabrications Ltd.) filed its last Sheet as at 30-9-1965 and Annual Return made upto 31-3-1967. But due to the default in filing its Balance Sheet as at 30-9-1966, the complaints were filed under Section 210(5) and 220(3) of the Act. The court convicted and fined the company and its directors [except one Shri T. Mitra who was relieved under Section 633(1)] and Manager and the Court also directed under Section 614(A) to file the said Balance Sheet by 23.10.68. As the time granted by the Court to file the Balance Sheet as on 30.9.66 has expired the matter is being considered to proceed under Section 614(2) against the Directors etc. Further the Company has been ordered to be wound up by the Hon'ble High Court on 4.6.68. However, it has been decided to

proceed for the Balance Sheet as on 30.9.67 and corresponding Annual Return against the directors of the company and the complaints have already been filed on 12.12.68 but no date has yet been fixed by the Court for hearing."

1.27. In their reply in respect of paragraphs 1.28 and 1.32 (S. Nos. 8 and 11), the Department of Supply stated :

"The Department of Company Affairs who were consulted in the matter have in their communication received in this Department on 24.6.68 have remarked that the observations made in the above recommendation, are factual and therefore, need no comment."

(Paragraph 1.28)

"The Department of Company Affairs who were consulted in the matter, have in their communication received in this Department on 24.6.1968, offered the following comments :

"In the absence of the up-to-date account books and records of UPCC (Pvt.) Ltd., it is not possible for the Department of Company Affairs to ascertain the liquid assets of the company to verify whether the company can pay back the advanced of Rs. 1.85 crores."

(Paragraph 1.32)

The Committee had desired to be furnished with the information on the following points :

- (i) "Whether any scrutiny has been carried out of the accounts of the company as available for checking the whereabouts of the amount drawn by the company from Government and its capacity to repay the moneys."
- (ii) "Whether the Central Bureau of Investigation has looked into this aspect of the case. If not, Government may examine the question of asking the Central Bureau of Investigation to look into this aspect."

1.28. In their reply dated the 24th February, 1969, the Department of Company affairs stated :

- (i) "This Department carried out an inspection of the account books and records that were made available by the Company under Section 209(4) of Companies Act, 1966 and furnished copies of the inspection reports to the Department of Supply for necessary action. Details of loans and advances compiled as per available records, were mentioned at pages 8 to 12 of the said report."

"It was also noticed during the course of the inspection that the accounts books made available for inspection were not complete and no audited balance sheet later than 1965-

had been made available. It would, therefore, be appreciated that in the absence of complete and up-to-date accounts books and records, it has not been possible for the Department of Company Affairs to ascertain as to how the amount of Rs. 1.85 crores had been utilised by UPCC (Pvt.) Ltd., but the available details (as in 1965) have already been furnished to the Department of Supply as mentioned above. It may be reiterated that in the absence of up-to-date account books and records of UPCC (Pvt.) Ltd., it is not possible for this Department to ascertain the present position of the liquid and other assets of the company and its capacity to repay the Government moneys."

- (ii) "The Department of Supply may examine this aspect in consultation with the Central Bureau of Investigation and do the needful in the matter."

1.29. In their reply to paragraph 1.29 and 1.31 (S. Nos 9 and 10) the Department of Economic Affairs stated :

Subject to the provisions of Section 372 of the Companies Act 1956, an Indian Company can purchase the shares of any other Indian company. Where the holder of the shares in question is a non-resident, the purchase involves remittance of the purchase price in foreign exchange which requires the permission of the Reserve Bank of India. Before according permission for release and remittance of foreign exchange, the Reserve Bank of India has to consider whether the outgo of such foreign exchange would serve any useful purpose and would be in the overall national interest. It has also to ensure, that the purchase value of the shares belonging to an non-resident is reasonable and is not unnecessarily inflated so that only the essential expenditure of foreign exchange is permitted. If the number of shares involved is small and does not effect transfer of controlling interests and the share is quoted on the recognised stock exchanges, the Reserve Bank of India does not have much difficulty in assessing the reasonableness of the purchase price. It is only when the shares of a company are not quoted on the stock Exchanges or where the purchase of shares involves transfer of controlling interests that the reasonableness of the price is examined by the Bank after getting a certificate of share valuations from the Auditors of the company and in consultation with the Ministry of Finance, Department of Economic Affairs. Thus the role of the Department of Economic Affairs is ordinarily limited to the assessment of the reasonableness of the share valuation. It is not usual for the Reserve Bank of India/the Department of Economic Affairs to enquire into the source of funds with which the shares are proposed to be purchased; nor does it appear to be within the jurisdiction of the Foreign Exchange Regulation Act.

However, when the Ministry of Works, Housing and Supply brought the facts of the overdrawal by the Company of large funds from Government, these were brought

to the notice of the Reserve Bank of India. In any case, the Reserve Bank of India finally rejected the application of the company for permission to purchase the shares of the Indo-Burma Petroleum Co. Ltd.

1.30. In their reply to paragraphs 1.29-1.31 (S. Nos. 9 and 10) the Department of Supply have stated :

“An action taken note dated 23.12.68 has been forwarded by the Ministry of Finance (Department of Economic Affairs) to the Lok Sabha Secretariat in respect of S. No. 9 (Para 1.29) and S. No. 10 (Para 1.31 excepting the first sentence of this Para). This Department, therefore, is concerned with S. No. 10 (Para 1.30) and first sentence of S. No. 10 (Para 1.31).

Para 130 of S. No. 10, indicates the factual position on which no comments are evidently necessary. As regards the observations of the Committee in the first sentence of Para 1.31, the position has been explained in this Department's action taken note in respect of S. No. 7 Appendix V of the PAC's 28th Report (Fourth Lok Sabha) forwarded to the Lok Sabha Secretariat.”

1.31. The Committee had desired to be furnished with the information on the following points :

- (i) Date when the Ministry of Works, Housing and Supply brought the fact of overdrawal by the company of large funds from Government to the notice of the Ministry of Finance.
- (ii) Whether this was not noticed by Associate Finance of Ministry of Works, Housing and Supply, if so, what action they took, and what standing arrangements there are for Associate Finance to bring matters of this nature to the notice of Main Finance.

1.32. In a communication dated 12th March, 1969, the Department of Economic Affairs have stated :

“The facts of overdrawal by the company of large funds from Government were first brought to the notice of this Department in the Ministry of Supply, Technical Development and Material Planning (Department of Supply and Technical Development) Secret D.O. letter No. 58(3)/66-PI(II), dated 26/28th December, 1966 to Additional Secretary (Shri S. S. Shiralkar). Suitable instructions were then issued to the Reserve Bank of India in Director (Investment) (Shri M. K. Venkatachalam) D.O. letter No. 429/67-EF(Inv), dated 13/19th January, 1967 to Shri V. A. Rao, Exchange Control Department, Central Office, Reserve Bank of India, Bombay.”

1.33. At a meeting held on 27th June, 1967, the representative of the firm was specially asked to file an affidavit about their assets but

this was not followed up. The Committee made the following observation in paragraph 1.35 :

"The Committee consider that Government should have pressed the firm to file a affidavit of heir assets so that they had a clear picture of their assets in order to compel the firm to return the advance of Rs. 1.85 crores unauthorisedly retained by it."

1.34. In their reply dated the 31-1-1969, the Department of Supply stated :

"The matter has been considered in consultation with the Ministry of Law and the Government Counsel who have advised on 6.7.68 and 8.7.68 that in view of the various proceedings pending in the Courts, it would not be practicable to obtain an affidavit from the firm as suggested by the Committee.

1.35. The Committee consider that it is of the utmost importance to ascertain how the amount of Rs. 1.85 crores overdrawn fraudulently by the firm has been disposed of by them. The Committee suggest that Government should use all available agencies including the Central Bureau of Investigation to thoroughly probe into the matter.

1.36. The Committee stress that investigations should be followed up by necessary action so as to recover as much as possible of the amount fraudulently overdrawn by the firm.

1.37. The Committee consider that as soon as it came to the notice of the Department of Supply that huge amounts had been overdrawn fraudulently by M'. U.P.C.C., the Department should have brought this to the notice of the Department of Economic Affairs in particular and other Ministries/ Departments. This would have enabled the Department of Economic Affairs and other Government departments to process all pending matters pertaining to M/s. U.P.C.C. (Pvt) Ltd. in the light of these known facts,

Peformance of the firm in respect of other stores—Paragraphs 2.52-2.53 (S. Nos. 31-32)

1.38. In paragraphs 2.49-2.53, the Committee had referred to the unsatisfactory performance of M/s. UPCC (Pvt.) Ltd. regarding orders placed for stores other than Road Rollers. The Committee made the following observations in paragraphs 2.52 and 2.53 :

"The Committee note that the project Directorate have reported that out of 23 cases where orders had been placed on M/s. UPCC Ltd., there are 4 cases as mentioned above which smack of fraudulent dealings of the firm and which were referred to the Central Bureau of Investigation for investigation in June and September, 1967. The Committee desire that the Central Bureau of Investigation should complete their investigation of these cases expeditiously."

"The Committee would like the Department of Supply to ensure that, in the case of offers placed by other Directories where either the goods have not been supplied or

other malpractices have been indulged in by M/s. UPCC and/or its others associate companies, the cases are referred to the Central Bureau of Investigation for investigation."

1.39. In their reply dated 23-12-1968, the Department of Supply have stated :

"The observations of the PAC, were brought to the notice of all Purchase Directorates in the DGS&D with the instructions to take immediate action in respect of cases which had to be referred to the Central Bureau of Investigation for investigation, in the light of this recommendation."

1.40. As a result of review by all the Directorates, the position is as follows :

1. Project Dte. have referred 4 cases for supply of stores other than Road Rollers to the C.B.I. for investigation.
2. In one case for supply of Bitumen Distributor Tanks being dealt with Mechanical Engineering Dte. final notice has been given to the firm for completion of supply. This case has not been referred to the C.B.I., as they do not seem to have committed any criminal offence.
3. Two cases for supply of spares for road rollers being processed by P&D Dte. have since been referred to the C.B.I. for investigation.

A statement giving details of the aforesaid seven cases is attached. The Central Bureau of Investigation is being asked to expedite completion of their investigation in respect of the four cases referred to them in June and September, 1967 as desired by the Committee in para 2.52 of their recommendations."

Statement showing details of cases for stores other than road rollers reported to C.B.I.

A/T No. & Date	Stores & Quantity	Malpractice in brief & in general terms.	Date on which reported to C.B.I.
1	2	3	4
Project Directorate			
1. Proj./34001-P 631, date 12-9-63	Dragline Bucket with attachments 4 Nos.	Stores which were originally to be delivered to consignee in Delhi were to be diverted to a consignee in Punjab, Delhi consignee advised that stores might have been received by the consignee in Punjab. Dspite reminders no cply received from the Punjab consignee. It is suggested that the stores were not supplied but payment was obtained by the firm.	26-6-67
2. Proj./307-308- 309-N/1/VPCC/ 385 dt. 4-9-62	Soil Stabilizers 25 Nos.,	It is suspected that the the firm obtained payment by quoting fictitious R/R No. and date on their bill.	28-6-1967

1	2	3	4
3. Proj./3047-N (A)/III/A/UPCC /1/642, dated 25-9-1963.	Michigan Tractor Dozer with attachments. 4 Nos. and with 4 sets (i.e. 16 Nos. of indigenous tyres.)	It is suspected that the firm obtained payment for 3 sets of tyres which they did not actually supply.	
4. Proj./311-313-314-315-N/UPCC/373, dt. 21-8-1962	Tractor Dozers 37 Nos.	One No. Tractor taken back for repairs has not been returned by the firm.	21-9-1967.
M. E. Directorote			
5. SV-1/257/3A-5A/III/69, dt. 27-2-1965.	Bitumen Distributor Tanks 5 Nos.	Firm have not completed supplies and 3 chassis are lying with them.	On 20-8-68 a notice was given to the firm for completion of supplies or return the chassis within the notice period. As no reply was received from them presumably due to their having gone into liquidation, the case has been referred to the Ministry of Law on 32-11-68 for their advice whether the 3 chassis, partly mounted with Bitumen Tanks by the firm which are Government property, should be demanded back from the Official Liquidator in the same condition as these were when given to the firm or alternatively, a claim for recovery of Rs. 1,03,843.20 representing the cost paid by us to the supplier of the Chassis-N/s. Hindustan Motors Ltd., Calcutta may be filed with him. Ministry of Law's advice is still awaited. The case has not yet been referred to the C. B. J. as the firm did not seem to have committed any criminal offence.

1	2	3	4
P. & T. Directorate			
6. SV-1/218/71/ 1714/15-3-66/II/ Spares/177 dt. 31-5-66.	Spares for Agrind Moore Road Rollers.	Firm obtained 95% pay- ment but the consignee has stated that no spare parts received upto now.	25-11-1968.
7. SV-2/2227/027A/ II/Spares/UPCC/ 11/856, dt. 23-9-64.	Do.	The firm obtained 95% payment without des- patching the stores.	14-11-1968.

1.41. The Committee desire that the Central Bureau of Investigation should expedite the investigation of the 6 cases (S. Nos. 1-4, 6 and 7), 3 of which were referred to them as early as June, 1967. The Committee also desire that action against the firm in the case relating to Bitumen distributor should be finalised expeditiously in consultation with the Ministry of Law.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

It would also be appreciated that delays may lead to tampering with records, change of officers and directors and the dissipation of assets. If it is a question of coping with the volume of records in a case, the Central Bureau of Investigation should deploy the necessary staff for the purpose but in no case should important investigation, be delayed. The Committee are not impressed with the reasons given by the Central Bureau of Investigation for the delay in completing the investigation.

[Sl. No. 4 (Para 1.10) of Appendix V of 28th Report (Fourth Lok Sabha)]

Action taken

All possible steps have been taken to expedite the investigation. It may, however, be stated that all connected records required for purpose of investigation either from the accused firm or Director General Supplies and Disposals have been taken into custody by the Central Bureau of Investigation. There is thus no likelihood of tampering with records. As regards dissipation of assets, D.G.S&D. have already taken action to file suits for specific performance of the contracts and in lieu thereof for recovery of damages. Action has also been taken by them for attaching certain shares of the company and in other concerns.

Further information giving latest position.

No change.

Recommendation

The Committee also desire that Government should examine how far the Central Bureau of Investigation is handicapped in the investigation of such important cases due to lack of sufficient staff or authority. The Government may examine whether the Central Bureau of Investigation requires further strengthening to complete such investigation expeditiously.

[Sl. No. 5 (Para 1.11) of Appendix V of the 28th Report (Fourth Lok Sabha)]

Action taken

The Central Bureau of Investigation is not handicapped in the investigation of such cases due to lack of authority. Central Bureau of Investigation has also adequate number of posts of investigating officers sanctioned. Central Bureau of Investigation has, however,

been experiencing great difficulty in filling up these posts. As persons with adequate experience are needed they have necessarily to be drawn from State Cadres. This matter was examined recently and it was found that the posts of Investigating officers in the Central Bureau of Investigation are filled largely on deputation of Police Officers from the States. The State Governments are reluctant to release their first rate men and even their good second rate men, because of their own expanding needs. To tide over these difficulties, it was felt that Central Bureau of Investigation should have a substantial proportion of its requirements by direct recruitments and to that extent be less dependent on deputationists from State Governments. Recruitment rules have subsequently been amended to provide larger percentage of direct recruitment.

Further information giving latest position

No change.

[Ministry of Home Affairs Letter No. 226/18/68-AVD/II
dated 6-2-69]

Recommendation

"The Committee find that the D.G.S.&D's Office Order No. 141 dated 26-11-1966 refers not only to para 261 of the Manual of Office Procedure for Supplies, Inspection and Disposals but also to earlier Office Order No. 69 dated 24-5-1963 and Office Order No. 152 dated 22-11-1963 which enjoin that adequate security such as hypothecation deed and insurance cover/Bank Guarantee should be obtained before authorising on account/progress payments, which are in the nature of payments in advance of despatch of stores covered by the contract."

[Para 2.3 (S. No. 16 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

Office Order No. 141, dated 26-11-1966 refers to Para 265 of the Manual of Office Procedure for Supplies, Inspection and Disposals, and not to para 261 of the Manual as mentioned in this recommendation.

The observation made by the P.A.C. in this recommendation is a factual statement based on Office Orders :—

1. No. 69, dated 24-5-1963,
2. No. 152, dated 22-11-1963 and
3. No. 141, dated 26-11-1966.

Which lay down the procedure for obtaining adequate security before authorising payments in advance of despatch of stores.

Ministry of Works, Housing and Supply Department of Supply

NEW DELHI;
the 31st January, 1969
No. PI-13(1)/68

Recommendation

“While the Committee would not like to pursue this aspect further, they are not satisfied with the above explanation. The fact remains that the request of the firm regarding the withdrawal of discount of Rs. 250 per road roller was not examined by the Department of Supply and/or the Ministry of Finance in the light of the relaxation in the terms of payment which had been agreed to by them in July, 1963, thus involving an unintended concession to the firm of above Rs. 1900 per road roller at 4% discount earlier offered by the firm in their fifth request of April, 1961.”

[Para 2.11 (S. No. 18 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

Noted.

Ministry of Works, Housing and Supply, Department of Supply
NEW DELHI;
December, 1968
No. PI-13(1), 68

Recommendation

“The Committee desire that remedial action should be taken in the light of these facts to ensure that complete papers are placed before the Department of Supply Ministry of Finance at the time of consideration of a request from a firm for grant of any concession in terms of payment or withdrawal of discount.”

[Para 2.12 (S. No. 19 of Appendix V) of 28th Report (Fourth Lok Sabha)]

Action taken

Necessary instruction have since been issued by the Director General, Supplies and Disposals, *vide* Office Order No. 116 dated 20th September, 1968 (copy enclosed). A copy each of the undernoted two office orders issued by D.G.S.&D. referred in Office Order No. 116 dated 20-9-68 are also enclosed:—

1. O.O. No. 20 dated 9-2-68 regarding payment of cost of stores supplied against contracts placed by the DGS&D.
2. O.O. No. 83 dated 20-6-68 regarding Departure from the Prescribed system of payment.

Ministry of Works, Housing and Supply Department of Supply
NEW DELHI;
December, 1968
No. PI-13(1)/68

**DIRECTORATE GENERAL OF SUPPLIES & DISPOSALS
SECTION CDN-3 SECTION**

OFFICE ORDER No. 116

Dated 20-9-1968.

SUBJECT :—*Departure from the prescribed system of payment.*

Attention is invited to Office Order No. 83, dated 20-6-1968 amending the existing para 265 of the DGS&D Manual on the recommendations of the Public Accounts Committee.

2. To enable the Co-ordination Supply Section to obtain the orders of the Department of Supply/Ministry of Finance in such cases of requests from firms for grant of any concession in terms of payment or withdrawal of discount, the Purchase Sections should ensure that complete papers are invariably submitted with the proposal in a self-contained note bringing out the full facts of the case, terms of the original offer, subsequent clauses, decisions thereon, the terms proposed to be accepted with full justification therefore, etc.

3. Para 2 of this Office Order may be added as a sub-para to para 265 of the DGS&D Manual as revised by Office Order No. 83, dated 20-6-1968. Consolidated Office Order No. 20, dated 9-2-1968 on payment procedure also stands amended to that extent.

Sd/-

Dy. Director (CS-I)

Standard Distribution

On File No. CDN-3/1(21)/II/67.

Recommendation

“The Committee note that Government propose to appoint a Deputy Director, Registration, in the office of the DGS&D who “would be fully qualified to examine, in a comprehensive manner, the capital structure of the companies, their balance sheets and profit and loss accounts and thus would be in a position to make a correct assessment of the financial soundness of the firm for registration purposes.” The Committee also note that “in doubtful and complicated cases it is proposed to provide that the Ministry of Finance should be consulted in such matters.”

[Para 2.18 (S. No. 20 of Appendix V) of the 28th Report (4th Lok Sabha)]

“The Committee would like Govt. to review the position in the light of experience gained after one year. The Committee also desire that in the light of such a review, general principles should be laid down for determining the types of complicated and doubtful case, which would require prior consultation with the Ministry of Finance before registration of the firm.”

[Para 2.19 (S. No. 21 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

The observation of the Public Accounts Committee has been noted. The services of a suitable officer have been obtained on deputation basis to man the post of Dy. Director (Registration) with effect from the 8th August, 1968. In the light of the experience gained, after one year, general principles will also be laid down for determining the types of complicated and doubtful cases which would require prior consultation with the Ministry of Finance before registration of firms.

Ministry of Works, Housing and Supply Department of Supply

NEW DELHI;

December, 1968

No. PI-13 (1)/68

Recommendation

“The Committee regret to note that, even though their report in this case was presented to the Lok Sabha on 4th August, 1967, the Department have not so far been able to issue an amendment to the Manual of Office Procedure for Supplies, Inspection and Disposals of the Director General of Supplies and Disposals. The Committee desire that such action should be taken forthwith to ensure that all cases which involve any departure from the standard terms of payment with substantial financial implications should be examined by the Financial Adviser concerned before final orders are passed.”

[Para 2.23 (S. No. 23 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

Para 265 of the Manual of Office Procedure for Supplies, Inspection and Disposals stipulates that if in any case, it is proposed to make a departure from the standard terms of payment, the orders of the DG(S&D) should be obtained through the Co-ordination Supplies Section, which will consult the C.P.&A.O. and obtain the orders of the Government where necessary. As a result of the recommendation made by the P.A.C. this para has been further amended to provide for approval of the Financial Advisor in cases of departure from the standard terms of payment. The revised para 265 of the Manual reads as under :—

“If a departure from the standard system of payment is proposed in any case, the orders of the Director General (Supplies & Disposals) should be obtained through Co-ordination Supplies Section. This Section will consult the Chief Pay & Accounts Officer, Ministry of Works, Housing and Supply, and thereafter obtain the orders of the Government of India. In all cases of departure from the standard terms of payment involving substantial financial repercussions, the cases will also be submitted to the Financial Adviser concerned before final orders are passed.”

Office Order No. 69 dated 24-5-63 and O.O. No. 152, dated 22-11-63: referred to in the recommendation relate to the subject "Payment procedure—'On account payment' in respect of raw materials acquired and paid for by fabricators—Dispensation with Indemnity Bond."

Ministry of Works, Housing and Supply Department of Supply
NEW DELHI;
the 31st January, 1969.
No. PI-13(1) 68

Recommendation

"The Committee find that the Director General of Supplies and Disposals' instructions issued in their Office Memorandum No. 3(8)/67-O&M, dated the 4th September, 1967, (referred to in Department of Supply's reply on S. No. 40 *ibid*) do not specifically cover shortcomings in the organisation in regard to dealing with the complaints of consignees. The Committee suggest that the D.G.S.&D., may devise a procedure by which all serious complaints received from consignees are immediately brought to the notice of and also periodically reviewed by the senior officers of the organisation so as to ensure prompt and proper action."

[Para 2.57 (S. No. 33 of Appendix V) of the 28th Report (4th Lok Sabha)]

"The Committee may be furnished with a copy of the comprehensive instructions which may be issued by Government in the matter."

[Para 2.58 (S. No. 34 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

Although some instructions on the subject exist, the DGS&D has been advised to devise a detailed procedure for dealing with complaints of the consignees and their periodical review by the Senior Officers of the Organisation to ensure prompt and proper action. Copies of the instructions issued will be furnished to the Committee.

No. PI-13(1)/68, dated 27-12-1968.

Further information required

It has been stated that "The DGS&D has been advised to devise a detailed procedure for dealing with complaints of the consignees and their periodical review by the senior officers of the organisation to ensure prompt and proper action."

Please state the progress made in devising the detailed procedure.

Reply of Government

A copy of the instructions issued vide D.G.S.&D's u.o. No. CDN-3/1(121)/II/68, dated 24-12-1968, is enclosed.

Ministry of Foreign Trade & Supply (Deptt. of Supply)

NEW DELHI;

25th April, 1969.

No. 13(1)/68-PI(Vol. II).

Copy of u.o. No. CDN-3/1(121)/II/68, dated 24-12-1968, from Directorate General of Supplies and Disposals, Section CDN-3, New Delhi-1, to Standard Distribution.

SUBJECT :—*Recommendation of the Public Accounts Committee—Serious complaints received from consignees—Procedure for dealing with.*

The Public Accounts Committee have recommended that all serious complaints received from consignees should immediately be brought to the notice of and also periodically reviewed by the Senior Officers so as to ensure prompt and proper action.

2. Complaints from the consignees generally fall under the following categories :—

- (i) delay in supply or non-receipt of stores for which advance payments were made to the firm,
- (ii) non-despatch of complete/correct stores as approved by the Inspector and for which advance payments were drawn by the firm, and
- (iii) claiming advance payments by quoting wrong despatch particulars.

3. All such complaints from and other malpractices, fraud etc. reported by consignees should be *immediately* brought to the notice of the Directors of Supplies for instructions regarding the corrective action to be taken and for report to the higher authorities, D.G. Department of Supply.

4. To ensure prompt and effective action on such complaints from consignees Directors of Supplies should maintain a Register in the Directorates (in the proforma indicated in the attached Annexure) in which all such complaints should be entered up. This Register should be examined by them every fortnight to ensure that necessary follow-up action is being taken regularly.

5. D.G. desires that the above instructions should be noted by all concerned for strict compliance.

Sd/-

Director (O&M and CDN).

ANNEXURE

Proforma for Register of Complaints from Consignees.

S. No.	A/T No. & Date	Name of Consignee	Letter No. & Date of the complaints	Nature of Complaint	Date of Review	Action taken & under whose orders
1	2	3	4	5	6	7

Reference :—Lok Sabha Secretariat O.M. No. 2/1/29/68/PAC, dated 14-1-1969.

Recommendation

“The Committee are surprised to note that, when the Negotiating Committee finalised their negotiations about the increase in price of the road rollers supplied by the firm in September, 1965, the office of the D.G.S.&D. did not specifically bring to the notice of the Committee the poor performance of the firm against the various A/Ts placed on them in the past. The Committee feel that the past performance of the various firms along with the quality of their road rollers should have been brought to the notice of the Negotiating Committee, so that the demand for an increase in price could have been examined in proper perspective. It is also strange to note that the Ministry of Finance did not enquire the working of the road rollers supplied by them, while agreeing to the increase in price of road rollers.

[Para 3.94 (S. No. 28 of Appendix X) of 1st Report (4th Lok Sabha)]

Action taken

It was stated in this Department's action taken note dated 23-3-1968 that the last portion of the above recommendation was being examined by the Ministry of Finance and that the Public Accounts Committee would be informed of the result in due course. The Ministry of Finance have since examined the matter and have furnished their comments as under :—

“The observations made in para 3.94 of the Committee's 1st Report (4th Lok Sabha) relating to the Finance Ministry has been examined by us. The circumstances in which the proposal was considered in the Department of Supply in consultation with the Ministry of Finance were explained to the Public Accounts Committee at length by the Finance Ministry's representative as reproduced in para 3.91 of the Report.”

2. The Supply Department's papers which came up for consideration were on the limited question of fixation of price only. This aspect of the matter was thoroughly examined by us from various financial angles. The performance of the suppliers against the previous contract, or about the working of the road rollers supplied by them was not touched upon in the papers that were referred to us. As the sources of supply of road rollers were limited and their entire production and distribution were controlled and kept under periodical review by the DGS&D, it appears that this aspect was not brought under consideration by the representatives of the Ministry of Supply or the Ministry of Finance when considering the revision of price.

3. In pursuance of the recommendations made in para 3.105 of the Committee's Report, the D.G.S.&D. have since issued instructions vide Memorandum No. SCIB/45(8)/I/67, dated 8-9-1967 to all Purchase Officers to take a note of the Committee's recommendations. This will ensure that in future the performance of the supplier will invariably be considered while reviewing revision/increase in prices."

No. 13(16)/67-PI, Vol. II, dated 23rd November, 1968.

Further information required

Please supply a copy of the instructions issued by the D.G.S.&D. vide their memorandum No. CSIB/45(8)/1/67 dated 8-9-1967.

Reply of the Government

A copy of the D.G.S.&D's Memorandum No. CSIB/45(8)/1/67, dated 8-9-1967. is enclosed.

Ministry of Foreign Trade & Supply (Deptt. of Supply)

New Delhi;

25th April, 1969.

No. 13(1)/68-PI.

Copy of Memorandum No. CSIB/45/45(8)/I/67, dated 8-9-1967, from Directorate General of Supplies and Disposals, New Delhi to all Purchase Officers/Sections.

SUBJECT:—*Revision of payment terms after placement of contracts.*

A case has come to notice where the contracting firm came up for revision of payment terms after the placement of the contract. The contract provided the usual payment terms i.e. 90% on proof of inspection and despatch and the balance 10% on receipt of stores by the consignee. The firm came forward with the plea that they could increase their production if payment was made on proof of inspection, without waiting for proof of despatch. A decision was taken in that case that 90% payment should be made on proof of inspection, another 5% on proof of despatch and the balance 5% on receipt of stores by the consignee. It was also decided that the revised terms of payment should be valid for a period of 6 months in the first instance. But later the revised terms of payment as stated above were allowed to continue even after the initial period of 6 months. While extending the period for allowing the liberalised

terms of payment the question whether the promise given by the firm (i.e. they would increase the production) was matched by performance was not taken into account. The Public Accounts Committee in their first report (4th Lok Sabha) have made the following recommendation in regard to the above transaction :—

“The procedure for considering cases of revision of purchase price should provide that the performance of the firm and of the stores supplied by it should be specifically examined so that while revising the price the performance aspect is not overlooked.”

All Purchase Officers/Sections are requested to note the above instructions.

Sd/-
Dy. Director (CDN Supplies I).

CHAPTER III

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

Recommendation

The Committee would like to emphasise that as each A/T constitutes an agreement by itself, it should have been possible for the Central Bureau of Investigation to complete investigations in respect of at least some A/Ts and initiate prosecutions so that action could be taken without delay.

[Sl. No. 3(Para 1.9) of Appendix V of 28th Report (Fourth Lok Sabha)]

Action taken

In the early stages the investigation was taken up by the Central Bureau of Investigation on the lines suggested by the Committee but it was found that it would not be possible to establish criminal offence without investigating into other A Ts also as investigation disclosed that the Road Rollers bearing the same engine No. were put up for inspections twice on two different A/Ts and 90% payment obtained and ultimately the Road Roller was despatched to a third party in another A T from whom 90% payment had already been obtained. For a proper and thorough investigation and making out a court case, the various A Ts have to be interlinked and from the investigation point of view the Road Rollers No. and Engine No. were taken as basis for establishing the case for criminal prosecution.

Further information giving latest position.

No Change.

CHAPTER IV

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

Recommendation

"The Committee regret that so far replies have been furnished by Government in respect of only 40 recommendations out of 67 and that the latest communications in respect of some of the vital recommendations were received as late as the beginning of this month.

[Para 1, 2 (S. No. 1 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

The replies of the Government to the remaining 27 recommendations which involve vigilance aspects could not be sent as the matter is still under investigation and the relevant records are with C.B.I. The C.B.I. have been asked to expedite their investigation.

Ministry of Foreign Trade & Supply (Deptt. of Supply)

NEW DELHI;

The 31st January, 1969.

No. PI-13(1) 68

Recommendation

The Committee are not happy with the progress made in the case by the Central Bureau of Investigation. Considering that the firm had drawn advances amounting to Rs. 1.85 crores, the case should have been investigated with the utmost expedition and finalised without delay.

[Sl. No. 2 (Para 1.8) of Appendix V of 28th Report (Fourth Lok Sabha)]

Action taken

The investigation in this case has been conducted by the Central Bureau of Investigation with due expedition. But from the Investigation point of view, it is a very complicated and difficult case involving colossal work. It involved about 100 contracts and 900 Road Rollers. The fraud was spread over a period of three years. Documents involved ran nearly to two lakhs. In respect of each contract corresponding records of the Directorate General of Supplies and Disposals, indentors and consignees had to be obtained and scrutinised. The consignee witnesses who had to be traced and questioned spread all over the country. A large number of Public servants and private persons who are involved as accused have to be questioned in detail. There was strike in the factories of M/s. U.P.C.C. and M/s. Agrind Fabrications. The employees, who form bulk of the witnesses in this

case, have gone out of Calcutta in search of new jobs. It took considerable time to ascertain their whereabouts and examine them. There was also difficulty in locating the Road Rollers which are kept stationed at various parts of the country. They had to be inspected and panchnama prepared at the places where they were located. The investigation was complicated as each Road Roller was connected with two or three Accepted Tenders and it was very difficult to interlink the A/Ts. Expert opinion had also to be obtained on the tampering of the Engine Numbers. All these factors contributed to the time taken in the investigation of the case.

Investigation in respect of 23 instances is complete. The Legal Officers who were consulted by Central Bureau of Investigation have suggested further investigation on a number of points so as to make a single good conspiracy case. This is being complied with now and charge sheet will be filed shortly.

As regards the misconduct on the part of the officers, an interim report giving the result of enquiries has been submitted to Directorate General of Supplies and Disposals authorities in respect of 10 senior officers and further report will be submitted as soon as final decision is taken.

Further information giving latest position.

1095 Road Rolles were involved in this case as against 900 reported earlier.

As suggested by Law officers of Central Bureau of Investigation, further investigation was taken up by Central Bureau of Investigation and as a result of sustained investigation sufficient evidence was collected to establish that the Chairman and Directors of M/s. U.P.C.C. Private Ltd. in collusion with their subordinates, both of M/s. U.P.C.C. Private Limited and M/s. Agrind Fabrications Ltd. (a sister concern) has conspired to defraud the Government by putting up the same Engine for inspection more than once and obtained 90 per cent payment. In some cases bogus inspection notes were got signed by the Inspecting Staff without producing any road roller for inspection. After completing the investigation and obtaining the opinion of law officers of the Central Bureau of Investigation, it was decided to prosecute the following 17 accused under section 120-B/420 IPC and 5(2) of the Prevention of Corruption Act. Section 420, 477-A IPC and 5(2)/5(1)(d) of Act II of 1947.

1. Shri S. M. Wahi, Chairman and Director M/s. U.P.C.C. Private Ltd.
2. Shri R. N. Wahi, Chief Executive and Director M/s. U.P.C.C. Private Ltd.
3. Shri K. M. Wahi, Director M/s. U.P.C.C. Private Ltd.
4. Shri R. C. Malhotra, General Sales Manager, M/s. U.P.C.C. Private Ltd.
5. Shri P.K. Mitra, Sales and Services Manager M/s. U.P.C.C. Private Ltd.

6. Shri K. N. Srivastava, Accountant M/s. U.P.C.C. Private Ltd.
7. Shri B. R. Joshi, Assistant Finance Manager, M/s. U.P.C.C. Private Ltd.
8. Shri P. B. Pakrasi, Controller of Finance M/s. U.P.C.C. Private Ltd.
9. Shri S. K. Sen Gupta, Manager, M/s Agrind Fabricaitons Ltd.
10. Shri N. Roy, Superintendent, Sales and Service, M/s. Agrind Fabrications Ltd.
11. Shri N. L. Mukherjee, Superintendent Assembling Department, M s. Agrind Fabrications Ltd.
12. Shri R. N. Kar, Production Manager, M's. Agrind Fabrications Ltd.
13. Shri T. Dass Gupta, General Foreman, M/s. Agrind Fabrications Ltd.
14. Shri Khalil Ahmed, Foreman M/s. Agrind Fabrications Ltd.
15. Shri B. Guha Roy, Foreman M/s. Agrind Fabrications Ltd.
16. Shri H. A. Romer, Inspection Officer, D.G.S.&D.
17. Shri S. B. Dutta, Inspecting Officer, D.G.S.&D.

After obtaining necessary sanction, a complaint (Chargesheet) has been filed against the above accused in the Court of the Fourth Additional Special Judge, Calcutta on 27th August, 1968. The case is now pending trial.

As further investigation has also shown that four more Inspecting Officers of Directorate General of Supplies and Disposals were similarly involved in the above fraud, S.P's report along with the draft sanction order has been sent to the Ministry of Works, Housing and Supply in respect of one Inspecting Officer on 31st October, 1968 and to Ministry of Industrial Development and Company Affairs in respect of the other in January, 1969 with a copy to Central Vigilance Commission requesting for sanction for prosecution of the Inspecting Officers. Further action will be taken on receipt of the necessary sanction.

[Ministry of Home Affairs Letter No. 226/18/68-AVD/11 dated 6-2-69]

Recommendation

“While the Committee note the Ministry's anxiety to recover the amount of about Rs. 2 crores unauthorisedly kept by the party, they cannot too strongly stress that, as Government are responsible for maintaining the highest traditions of integrity and public conduct, it is their foremost duty to ascertain whether any fraudulent practices liable to criminal proceedings have been committed and to spare no efforts to bring the guilty to book as a deterrent to others.”

[Para 1.119 (S. No. 6 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

In order to ascertain whether any fraudulent practices were committed and also to take action against those guilty of adopting such practices, the matter was reported for detailed and complete investigations to the C.B.I. After completion of their investigations the CBI have since filed a complaint (charge-sheet) in the court of the Judge, 4th Additional Special Court, Calcutta, on 26-8-1968 against the Directors and employees of M/s. UPCC (P) Ltd., and the Government officials who were alleged to have adopted fraudulent practices in this case. A copy of the charge sheet is enclosed.

No. PI-13(1)/68, dated 27-12-1968.

Further information required

It has been stated in para 20 of the complain (charge-sheet) filed in the court of Judge, 4th Additional Special Court, Calcutta that : "No sanction for prosecution of Shri H. A. Romer accused is necessary as this accused is no longer a public servant and he retired."

Please state when the officer retired and why he was allowed to retire without taking due action against him.

Reply of the Government

Shri H. A. Romer retired from service on the 2nd November, 1967 (A.N.) on attaining the superannuation age of 58 years under F.R. 56(a) vide Notification No. A-6/247(382) dated 24-11-67. (copy enclosed). According to this rule, a Government servant retires from service on attaining the superannuation age of 58 years.

There was no action which could be taken against Shri Romer at the time he retired as the case pertaining to the supply of road rollers by M/s. UPCC (P) Ltd., was still under investigation by the C.B.I. There is however, nothing to prevent the C.B.I. from prosecuting Shri Romer even after he has retired.

Ministry of Foreign Trade & Supply (Deptt. of Supply)
New Delhi;
25th April, 1969.
No. 13(1)/68-PI.

Annexure

COMPLAINT (Charge-sheet)

In the Court of the Judge, 4th Add. Spl. Court, Calcutta

State-Vs-1. Mr. S. M. Wahi, Chairman/Director, M/s. United Provinces Commercial Corporation (P) Ltd., 6, Ganesh Chander Avenue, Calcutta.

2. Mr. R. M. Wahi, Director M/s. United Provinces Commercial Corporation (P) Ltd., 6, Ganesh Chander Avenue, Calcutta.

3. Mr. K. M. Wahi, Director, M/s. United Provinces Commercial Corporation (P) Ltd., 6, Ganesh Chander Avenue, Calcutta.
4. Mr. R. C. Malhotra, General Sales Manager M/s. United Provinces Commercial Corporation (P) Ltd. 6, Ganesh Chander Avenue, Calcutta.
5. Shri P. K. Mitra, Sales & Service Manager, M/s. United Provinces Commercial Corporation (P) Ltd. 6, Ganesh Chander Avenue, Calcutta.
6. Shri K. L. Srivastava, Accountant, M/s. United Provinces Commercial Corporation, (P) Ltd., 6, Ganesh Chander Avenue, Calcutta.
7. Shri B. R. Joshi, Asstt. Finance Manager, M/s. United Provinces Commercial Corporation (P) Ltd., 6, Ganesh Chander Avenue Calcutta.
8. Shri N. B. Pakrasi, Controller of Finance, M/s. United Provinces Commercial Corporation (P) Ltd. 6, Ganesh Chander Avenue, Calcutta.
9. Shri S. K. Sen Gupta, Manager M/s. Agrind Fabrications Ltd., Calcutta.
10. Shri R. N. Roy, Superintendent Sales & Service Department, M/s. Agrind Fabrications Ltd., Calcutta.
11. Shri R. N. Kar, Production Manager, M/s. Agrind Fabrications Ltd., Calcutta.
12. Shri N. L. Mukherjee, Supdt. Assembly, M/s. Agrind Fabrications Ltd., Calcutta.
13. Shri T. Das, General Foreman, M/s. Agrind Fabrications Ltd., Calcutta.
14. Shri Khalil Ahmed, Foreman, M/s. Agrind Fabrications Ltd., Calcutta.
15. Shri B. Guha Roy, Foreman, M/s. Agrind Fabrications Ltd., Calcutta.
16. Shri H. A. Romer, Inspecting Officer, Directorate of Inspection, Calcutta.
17. Shri S. B. Datta, Inspecting Officer, Directorate of Inspection, Calcutta.

U/S

120 B.I.P.C. r/w 5(2) of Act II of 1947, 5(2) r/w 5(1) (d) of Act II of 1947 and Section 420 and 477 A.I.P.C.

I. Shri K. N. Sural, Inspector of Police, Special Police Establishment. C.B.I., C.I.A. (1), New Delhi, most respectfully report as under :

1. That M/. United Provinces Commercial Corporation was set up in 1945 as a firm with two partners namely S/Shri S. M. Wahi and P. M. Wahi, who are own brothers. The partnership was registered with the D.G.S.&D. as Agents and Distributors of certain items of agricultural equipment of foreign manufacture.

2. That on 17-3-1965, the firm applied for registration as a supplier of road-rollers manufactured by Malcolm Moore of Australia. The firm's application was not accepted. They were told to advise their principals to get themselves registered with the D.G.S. & D., New Delhi.

3. That M/s. Agrind Fabrications Ltd. was incorporated on 1-7-1965 as a Public Limited Company with the object to carry on the business of manufacturing in whole or part, agricultural and industrial tractors of all types, agricultural implements, industrial machinery such as road-rollers compaction road-rollers, loaders, dozers etc. including assembly of associated equipments. The present business of the company includes manufacture of trailers, road-rollers and bitumen tankers. During the last few years, the company was mainly engaged in the production of road-rollers, which accounted for more than 90% of its total turnover.

That at the time of incorporation the authorised capital of the company was Rs. 1,00,000 and this has since been increased to Rs. 1 crores consisting of 75,000 ordinary shares of Rs. 100 each and 25,000 cumulative preference shares of Rs. 100 each. The subscribed capital of the company has been increased from time to time. Upto June 1959 the company allotted 651.1 ordinary shares of which 1,000 shares were allotted on 14-4-1956 to United Provinces Commercial Corporation for consideration other than cash. Pursuant to an agreement dated 16-4-1956 the company acquired the following assets from the United Provinces Commercial Corporation for which the above shares were allotted :—

	Rs.
Plant & Machinery	30,180
Tools & Implements	27,605
Furniture and Office Appliances	5,765
Motor Trucks, Trucks etc.	27,750
Factory shed	9,360
	Rs. 1,00,000

After June, 1959, the company had allotted the following shares for cash from time to time :—

Date of allotment	Number of shares	To whom allotted
22-2-61	2,000 ordinary	United Provinces Commercial Corporation (P) Ltd.
27-7-61	1,000 ordinary	Do.
16-1-63	2,500 ordinary	Do.
29-8-63	1,400 ordinary	Do.
23-12-64	1,160 ordinary	Do.
23-12-64	1,050 ordinary	Do.
21-10-65	2,000 ordinary	Do.
31-8-66	250 Pref.	S. M. Wahi.
31-8-66	250 Pref.	P. M. Wahi.

inspection of the Road-rollers and another 5% on proof of despatch and the balance 5% on receipt of stores by the consignee. The company was informed of this decision by the Government *vide* D.G.S.&D. letter dated 15-7-1963.

9. That as per general terms of the contract, M/s. U.P.C.C. (P) Ltd. had to supply "Agrind/Moore" road-rollers 8/10 ton capacity with Fordson Super/Major Diesel Engines 51.8 B.R.R. or Parkins P-4 Diesel Engine, Electric Starting adjustable scraps to wing attachments etc. These road-rollers were to be manufactured in the Factory of M/s. Agrind Fabrication Ltd., Calcutta. The investigation has revealed that after completion of road-rollers in the factory of M/s. Agrind Fabrications Ltd. Calcutta, the same used to be inspected by the Inspecting Officers of D.G.S.&D., Calcutta and inspection notes were prepared and issued by them in favour of M/s. U.P.C.C. (P) Ltd. under a delivery challan for onward despatch to the respective M/s. Agrind Fabrication Ltd. used to supply the same to M/s. U.P.C.C. whom A/Ts. used to be placed by D.G.S.&D after inspection M/s. Agrind Fabrications Ltd. used to supply the same to M/s. U.P.C.C. (P) Ltd. under a delivery chalan for onward despatch to the respective consignees. M/s. Agrind Fabrications Ltd. were prefering bills for the road-rollers manufactured and supplied and they used to receive the payment from U.P.C.C. (P) Ltd. All the delivery challans of M/s. Agrind Fabrications Ltd. were duly entered in the receipt register of M/s. U.P.C.C. (P) Ltd. in respect of the road-rollers supplied by the manufacturing concern.

M/s. P.C.C. (P) Ltd. used to import Fordson Super Major Diesel Agricultural Tractors from England, while M/s. Agrind Fabrications Ltd. used to import Fordson Super Major Diesel Engines from England.

10. That on receipt of a complaint from Shri N. K. Thandani, Dy. Director General, Supplies & Disposals, New Delhi, *vide* his letter dated 25-11-66 alleging that M/s. U.P.C.C.(P) Ltd. and its management/employees and others had defrauded the Government of India to the tune of Rs. 2,16,64,800 by obtaining the said amounts on the basis of false and fictitious inspection notes issued by various Inspecting Officers, a Regular Case No. 22/66-CIA(I), New Delhi was registered and investigation was taken up.

11. That as a result of the investigation it has been revealed that after accepting the aforesaid liberalised terms of payment on or about 15th July, 1963, a criminal conspiracy came into existance amongst the Inspecting Officers S/Shri H. A. Romer and S. B. Dutta of D.G.S.D. Office, Calcutta (Accused No. 16 and 17 respectively) and the management/employees of M/s. U.P.C.C. (P) Ltd. any M/s. Agrind Fabrications Ltd. Calcutta (Accused No. 1 to 15) and others to commit or caused to be committed offences of criminal misconduct and cheating the Central Government viz. Pay & Accounts Officer, Calcutta, by dishonestly/fraudulently obtaining 90% payment on the cost of road-rollers to be supplied by M/s. U.P.C.C. (P) Ltd. against various A/Ts. issued by D.G.S.&D., new Delhi on the basis of false and fictitious Inspection Notes issued by the said Inspecting Officers.

12. That in pursuance of the said conspiracy and to advance its objects the following *modus operandi* was adopted in issuing false

and fictitious inspection notes by S. B. Dutta and H. A. Romer accused :—

- (a) Mentioning the same engine number in two inspection notes showing the inspection of two road-rollers, when in fact no such road-rollers had been even manufactured/ assembled by M/s. Agrind Fabrications Ltd., Calcutta.
- (b) Mentioning the number of engines in the inspection notes showing the inspection of road-rollers even though the concerned engines had not reached the country from abroad on the dates mentioned in the inspection notes.
- (c) Issuing of Inspection Notes showing the inspection of road-rollers with engines which engines were never supplied to M/s. Agrind Fabrications Ltd. by M/s. U.P.C.C. (P) Ltd. to assemble them with road-rollers and which were actually sold to other parties as tractors by M/s. U.P.C.C. (P) Ltd.
- (d) Mentioning the bogus numbers of engines as well as road-rollers in the Inspection notes.

13. That during the period of conspiracy, i.e. 15th July, 1963 to November, 1966 M/s. U.P.C.C. (P) Ltd. had drawn 90% payment against 1095 road-rollers on the basis of various inspection notes issued by Shri S. B. Dutta, H. A. Romer and other Inspecting Officers of D.G.S.D., out of which 417 road-rollers were never supplied by the said company to the Government in respect of which Rs. 2,16,64,800 had been claimed and received by the managements of the company dishonestly and fraudulently.

14. That all material times Shri S. M. Wahi, accused No. 1, was Chairman of M/s U.P.C.C.(P) Ltd. and held the largest number of shares of the Company. He is the main beneficiary in the proceed of the fraud committed in this case. He took prominent part in obtaining the liberalised terms of payment from the Government. Further he was Director of M/s. Agrind Fabrications Ltd. which company was manufacturing road-rollers. It has been established from the minutes book of M/s. Agrind Fabrications Ltd. that Shri S. M. Wahi attended the meetings of the Board of Directors on various occasions in which the position regarding the manufacture of road-rollers was reviewed. He was well posted with the actual production of the road-rollers and the inspection of the same as carried out in the factory-premises. Financial schemes were prepared by him as fictitious inspection notes to be credited in the account of M/s. U.P.C.C. (P) Ltd. from where huge and substantial amounts were diverted to the accounts of M/s U.P.C.C. (Partnership Concern) which was in the exclusive Control of S. M. Wahi on account of the other partner P. M. Wahi being insane. S. M. Wahi being the chairman of M/s. U.P.C.C. (P) Ltd. used to supervise the financial and commercial aspects of the company and all the statements of accounts prepared in the office were submitted to him through the Accountant of the Company Shri K. L. Srivastava Accused. These statements included the expenditure and income with regard to road rollers sold to Government and against which the company were drawing 90% payments on proof of inspection.

15. That Shri R. M. Wahi, Accused No. 2, as well as K. M. Wahi, Accused No. 3, were the active Directors of M/s. U.P.C.C. (P) Ltd. and all the inspection of the road-rollers were being fraudulently changed before the inspection in the factory of M/s. Agrind Fabrications Ltd. at the instance and under the directions of the said two accused persons.

16. That under the directions of S/Shri P. K. Mitra, Accused No. 5, R. M. Wahi and K. M. Wahi, Accused No. 2, the inspection notes were typed by the witness Shri K. Krishnan in the office of M/s. U.P.C.C. (P) Ltd. which were only signed by the Inspecting Officers namely S/Shri S. B. Dutta and H. A. Romer, Accused. It has also been established that the engine Nos. from the invoice received in advance from abroad used to be intimated by the accused Shri P. K. Mitra, Sales & Service Manager, B. R. Joshi, Accused No. 7, Assistant Financial Manager, R. C. Malhotra, Accused No. 4, General Sales Manager, to Shri R. N. Roy, accused No. 10 Superintendent Sales and Service, M/s. Agrind Fabrications Ltd. and Shri N. L. Mukherjee, Accused No. 12, Superintendent Assembly, M/s. Agrind Fabrications Ltd. and also sometimes to Shri S. K. Sen Gupta, Accused No. 9, Manager of the said Inspecting Officers although the engines had not even been touched the shore of India.

17. That S/Shri T. Das Gupta, Accused No. 13, General Foreman, Khalil Ahmed A-14, and B. Guha Roy A-15, Foreman of M/s. Agrind Fabrications Ltd. prepared the Test Certificates on M/s. Agrind Fabrications Ltd. giving false engine Nos. knowing or having reason to believe that the said engines had not been received in the factory from M/s. U.P.C.C. (P) Ltd.

18. That Shri S. B. Dutta A-17, has issued about 100 inspection notes mentioning the engine Nos. of road-rollers therein when the said engines were neither in existence in the factory nor were they assembled with road-rollers. Similarly, Shri H. A. Romer A-6, has issued 36 inspection notes which have been proved to be false and fictitious.

19. That with a view to achieve the object of conspiracy, the accused persons had falsified the records namely production register, returns of M/s. Agrind Fabrications Ltd. issue register of M/s. U.P.C.C. (P) Ltd. and various inspection notes in question.

20. That the said acts of the accused persons constitute offences punishable under section 120-B, I.P.C. r/w Section 5(2) of the Prevention of Corruption Act, 1947 (Act II of 1947) and 5(1) (d) r/w Section 5(2) of the said Act and Section 420/477A, IPC.

Sanction order for prosecution of Shri S. B. Dutta, Inspecting Officer, Office of the Directorate of Inspection, Calcutta by the competent authority to remove him from service is attached herewith. No sanction for prosecution of Shri H. A. Romer accused is necessary as this accused is no longer a public servant and he retired.

21. That accused No. 1, 9 and 10 had been arrested and released on bail. The bail bond of accused No. 1 has been filed in the court of

C.P.W., Calcutta while the bail bonds of accused No. 9 and 10 are attached herewith. The rest of the accused have not been arrested so far.

22. That this case has been distributed to this Hon'ble Court under Government of West Bengal Judicial Department Notification No. 9292-J, dated 26-8-1968.

It is prayed that necessary process may be issued against the accused to stand their trial in this case.

Sd/- K. N. SORAL
Inspector of Police,
C.B.I., S.P.E., C.I.A. (I), New Delhi.

"In the complaint, it has been mentioned at para 21 that accused No. 1, 9 and 10 had been arrested and released on bail. Apart from these three persons, Shri R. M. Wahi and K. M. Wahi, Directors, M/s. U.P.C.C. (Pvt.) Ltd. shown at Serial Nos. 2 and 3, had also been arrested and released on bail on 15-4-1967."

Recommendation

"The Committee had expected Government to redouble their efforts to ascertain how the amount of Rs. 1.85 crores taken as an advance by the firm had been disposed of. The Committee are disappointed to find that even now Government have no clear idea about the manner in which this amount has been disposed of by the firm." [Para 1.37 (S. No. 7 of Appendix V) of the 28th Report 4th Lok Sabha]

Action taken

The comments of the Department of Company Affairs who have examined this matter are reproduced below :—

"On the request of the Department of Supply, an immediate inspection of account books and records of U.P.C.C. (Pvt.) Ltd., was taken up under Section 209(4) of the Companies Act, 1956.....It would also appear.....that the account books of the Company made available for inspection were not complete and no audited balance sheet is available after 1965. It would, therefore, be appreciated that in the absence of complete and up-to-date books it is not possible for the Department of Company Affairs to ascertain as to how the amount of Rs. 1.85 crores had been disposed by U.P.C.C. (Pvt.) Ltd. However, the available details have already been furnished to the Deptt. of Supply.

At page 79 of the report under the heading 'action taken by Government' it is mentioned that they have also received three reports from the Department of Company Affairs on the assets of the firm. These reports cover the period upto 31-12-65 only. The Department

of Company Affairs could not compile the financial position of the two companies for 1966 and 1967, as the accounts books of both M/s. U.P.C.C. (Pvt.) Ltd., and M/s. Agrind Fabrications have not been completely written after December, 1965, and the published balance sheets are only upto October, 1965 in the case of M/s. Agrind Fabrications and upto 31-12-65 in the case of U.P.C.C. (Pvt.) Ltd.

Necessary action for prosecution in respect of defaults for non-filing of balance sheet as at 31-12-66 has already been initiated by the Registrar of Companies.

The Complete and up-to-date account books and records of the partnership firm were also not made available for ascertaining the use of funds by the partnership firm said to have been advanced by the U.P.C.C. (Pvt.) Ltd."

In the absence of books of accounts and Balance sheets, for subsequent years to those ending on 31-12-1966 and 31-12-1967, it is difficult to ascertain the requisite information.

Ministry of W.H.S. (Deptt. of Supply)

NEW DELHI.

December, 1968.

No. PI-13(1)/68.

No. F. 8(4)/BGT/68

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRIAL DEVELOPMENT,
INTERNAL TRADE AND COMPANY AFFAIRS

DEPARTMENT OF COMPANY AFFAIRS

Shastri Bhavan, 5th Floor, "A" Wing, Dr. R. P. Road,

New Delhi-1, the 1st March, 1969.

OFFICE MEMORANDUM

SUBJECT:—*Action taken on the 28th Report of Public Accounts Committee (Fourth Lok Sabha) relating to Purchase of Road Rollers.*

In continuation of D.O. letter of even number dated the 29th January, 1969 to Shri Murgai, the undersigned is directed to furnish the requisite information as under :—

S. No. 7: "It has been stated that Necessary action for prosecution in respect of defaults for non-filing of balance sheet as on 31-12-1966 has already been initiated by the Registrar of Companies."

(a) Please state :—

(i) When the prosecution was launched

The Registrar has informed that in the case of U.P.C.C. Private Limited prosecution in respect of defaults for non-filing of balance sheet as on 31st December, 1966 was launched on 19th June, 1968.

(ii) The particulars of defaults by M/s. U.P.C.C. and M/s. Agrind Fabrications.

The defaults reported by the Registrar of Companies, Calcutta in respect of U.P.C.C. Pvt Ltd. were under section 210(5) and 220 (3) of the Companies Act, 1956, in respect of its balance sheet as at 31-12--1966.

In case of Agrind Fabrications Limited also the defaults committed by the Company were under the provision of section 210(5) and 220(3) of the Act for its balance sheet as at 30th September, 1966.

(iii) the present position of prosecution.

U.P.C.C. Pvt. Ltd.

The prosecution case is still pending with the Court and the next date of hearing has been fixed on 26th February, 1969. Further the Company has gone into liquidation by Hon'ble High Court's Order dated 4-6-68 and the Official Liquidator has been appointed as Liquidator of the company.

The Agrind Fabrication Limited.

The Company filed its last Balance Sheet as at 30-9-1965 and Annual Return made upto 31-3-1967. But due to the default in filing its Balance Sheet as at 30-9-1966, the complaints were filed under section 210 (5) and 220(3) of the Act. The court convicted and find the company and its directors (except one Shri T. Mitra who was relieved under section 633(1) and Manager and the Court also directed under section 614(A) to file the said Balance Sheet by 23-10-1968. As the time granted by the Court to file the Balance Sheet as at 30-9-1966 has expired the matter is being considered to proceed under section 614(2) against the directors etc. Further the company has been ordered to be wound up by the Hon'ble High Court on 4-6-1968. However, it has been decided to proceed for the Balance Sheet as on 30-9-1967 and corresponding Annual Return against the directors of the company and the complaints have already been filed on 12-12-1968 but no date has yet been fixed by the Court for hearing.

(b) Please also state if any action has been taken against M/s. Parts Service (India) Limited.

"The Company filed its last Annual Return made upto 30-9-1967 and Balance Sheet as at 31-12-1967. The directors of the company applied for relief under section 633(2) of the Act and on 13-8-68 Mr. Justice K. L. Roy granted the prayer made in the application but no time has been specified in the order in respect of filing of the Balance Sheet as on 31-3-1967. However, it has been mentioned in the order that the Registrar will have the right to levy Additional fees on the Balance Sheet. In respect of Balance Sheet as on 31-3-68 and Annual Return made upto 30-9-1968, the Registrar granted extension of time upto 30-11-68 to the Company to hold the Annual general meeting for the said year and the default action is being taken. Another petition under section 633(2) praying for relief for non-filing the Accounts for the year ending 31-3-1967 has been preferred before the Hon'ble High Court, Calcutta which stood adjourned till 17-2-1969.

It is requested that a suitable consolidated reply may be sent to the Lok Sabha Secretariat under intimation to this Department.

This has also reference to D.O. Letter No. 13(1)/68-PI(ii) dated the 12-2-1968 from Shri A. K. Agarwal.

This issues with the approval of the Joint Secretary.

Yours faithfully,

Under Secretary to the Government of India.

To

Shri S. C. Murgai,
Director of Supplies (S.D.),
D.G.S.&D.
Ministry of Foreign Trade & Supply,
NEW DELHI.

No.F.8(4)/BGT/68.

Copy forwarded for information to the Lok Sabha Secretariat (P.A.C. Branch), Parliament House, New Delhi with reference to that Secretariat's O.M. No. 2/1/29/68/PAC dated the 14th January 1969 and in continuation of this Department's endorsement of even number dated the 12th February, 1969.

Under Secretary to the Government of India.

Recommendation

"The Committee find that in the last available balance sheet of U.P.C.C. (Pvt.) Ltd., for 1965, an amount of Rs. 1,08,172.56 has been shown in Schedule 'G' of the Report as having been given as loans and advances without any security other than the debtors' personal security. The Committee note that investigations carried out by the Department of Company Affairs show that over a crore of rupees had been transferred by U.P.C.C. (Pvt.) Ltd., to the earlier partnership firm."

[Para 1.28 (S. No. 8 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

The Department of Company Affairs who were consulted in the matter have in their communication received in this Department on 24-6-68 have remarked that the observations made in the above recommendation, are factual and therefore, need no comment.

Ministry of Works, Housing & Supply, (Department of Supply)
No. PI-13(1)/68.

Dated, the, 23rd De.' 68.

Recommendations

A further clue to this is available in the U.P.C.C.'s original application and their subsequent letter of 1st March, 1968 pressing their request to be allowed to purchase shares of the Indo-Burma Petroleum Company Limited which would involve a purchase price of Rs. 1,24,57,100 and a further sum of £ 50,000 on account of sale proceeds to be transferred to the U.K.

[Para 1.29, S. No. 9 of Appendix V of the 28th Report (4th Lok Sabha)]

The Committee consider that Government have not carried out a thorough investigation in to the manner in which U.P.C.C. (Pvt.) Ltd. have disposed of an amount of Rs. 1.85 crores received by them as advance. *It is all the more disturbing that when the firm approached Government on more than one occasion with offers of shares of their allied or subsidiary companies as security or with the request to permit to purchase shares of Indo-Burma Petroleum Co. Ltd., Government did not question them closely about the source of their funds.*

[Para 1.31, S. No. 10 of Appendix V of the 28th Report (4th Lok Sabha)]

Action taken

This Department is concerned only with item 9 and the underline portion of item 10 as quoted above. As regards the first sentence of item 10, this would appear to be for the Ministry of Works, Housing and Supply and the Central Bureau of Investigation.

Subject to the provisions of Section 372 of the Companies Act 1956, an Indian Company can purchase the shares of any other Indian company. Where the holder of the shares in question is a non-resident, the purchase involves remittance of the purchase price in foreign exchange which requires the permission of the Reserve Bank of India. Before according permission for release and remittance of foreign exchange, the Reserve Bank of India has to consider whether the outgo of such foreign exchange would serve any useful purpose and would be in the overall national interest. It has also to ensure that the purchase value of the shares belonging to a non-resident is reasonable and is not unnecessarily inflated so that only the essential expenditure of foreign exchange is permitted. If the number of shares involved is small and does not effect transfer of controlling interests and the share is quoted on the recognised stock exchanges, the Reserve Bank of India does not have much difficulty in assessing the reasonableness of the purchase price. It is only when the shares of a company are not quoted on the Stock Exchanges or where the purchase of shares involves transfer of controlling interests that the reasonableness of the price is examined by the Bank after getting a certificate of share valuations from the Auditors of the company and in consultation with the Ministry of Finance, Department of Economic Affairs. Thus the role of the Deptt. of Economic Affairs is ordinarily limited to the assessment of the reasonableness of the share valuation. *It is not usual for the Reserve Bank of India/the*

Department of Economic Affairs to enquire into the source of funds with which the shares are proposed to be purchased; nor does it appear to be within the jurisdiction of the Foreign Exchange Regulation Act.

However, when the Ministry of Works, Housing and Supply brought the facts of the overdrawal by the Company of large funds from Government, these were brought to the notice of the Reserve Bank of India. In any case, the Reserve Bank of India finally rejected the application of the company for permission to purchase the shares of the Indo-Burma Petroleum Co. Ltd.

Dated 23-12-68.

Ministry of Finance (Deptt. of E. Affairs) No. nil dt. nil (received on 13-12-69)

D.O. No. 5/123/68-EF(Inv)

R. S. Mital
Under Secretary

New Delhi, the 12th March, 1969.

Dear Shri Agarwal,

Please refer to your endorsement No. 13(1)/68-PI, dated the 1st March, 1969 regarding information desired by Action Taken Sub-Committee of the Public Accounts Committee on the United Provinces Commercial Corporation (P) Ltd.'s road rollers' case. The only information that we have in regard to S. Nos. 9 and 10 is that the facts of overdrawal by the company of large funds from Government were first brought to the notice of this Department in the Ministry of Supply and Technical Development & Material Planning (Deptt. of Supply and Technical Development) Secret D.O. letter No. 59(3)/66-PI(II), dated 26th/28th December, 1966 to Additional Secretary (Shri S. S. Shiralkar). Suitable instructions were then issued to the Reserve Bank of India in Director (Investment) (Shri M. K. Venkatachalam)'s D.O. letter No. 429/67-EF (Inv), dated 13/19th January, 1967 to Shri V. A. Rao, Exchange Control Department, Central Office, Reserve Bank of India, Bombay.

The above facts are already known to the Department of Supply and may, if desired, be utilised by them in the note that they may be preparing on the subject for the Lok Sabha Secretariat.

A copy of this letter is being endorsed to Shri S. C. Murgai, Director (Special Duty), D.G.S.&D. and others.

Yours sincerely,

Shri A. K. Agarwal,
Under Secretary,
Deptt. of Supply,
NEW DELHI.

Copy forwarded to :

1. Shri S. C. Murgai, Director (Special Duty), D.G.S.&D., New Delhi.
2. Central Bureau of Investigation, New Delhi.

3. Lok Sabha Secretariat.
4. Ministry of Industrial Development, Internal Trade & Company Affairs (Shri N. K. Sen Gupta, Dy. Secretary.)
5. The Comptroller & Auditor General of India (Shri T. S. Anand Dy. Director—Report Central).
6. The A. G., Commerce, Works & Misc.

Copy also forwarded to the Budget Div. (Shri Manjit Singh, Under Secretary). Papers received with their U.O. No. 882-Budget II, dated 17th February, 1967 are also returned.

Under Secretary to the Government of India

Recommendations

A further clue to this is available in the UPCC's original application and their subsequent letter of 1st March, 1968 pressing their request to be allowed to purchase shares of the Indo-Petroleum Company Ltd., which would involve a purchase price of Rs. 1,24,57,100 and a further sum of £ 50,000 on account of sale proceeds to the U.K.

[S. No. 9 (Para 1.29) of Appendix V to 28th Report (4th Lok Sabha)]

The Committee also find that in a letter dated 4th November, 1967 to the Minister of Supplies, M/s. UPCC Pvt. Ltd. stated *inter alia* as under :—

“Additionally, from Rs. 50.00 lakhs advanced by UPCC Pvt. Ltd., to Assam Sillimanie Ltd., for the Ramgarh Ragractory Project, UPCC Pvt. Ltd. expects to get shares at least to the extent of Rs. 20.00 lakhs.”

[S. No (Para 1.30) of Appendix V to 28th Report (4th Lok Sabha)]

The Committee consider that Government have not carried out a thorough investigation into the manner in which UPCC (Pvt.) Ltd. have disposed of an amount of Rs. 1.85 crores received by them as advance. It is all the more disturbing that when the firm approached Government on more than one occasion with offers of shares of their allied or subsidiary companies as security or with the request to permit to purchase shares of Indo-Burma Petroleum Co. Ltd., Government did not question them closely about the source of their funds.

[S. No. 10 (Para 1.31) of Appendix V to 28th Report (4th Lok Sabha)]

Action taken

An action taken note dated 23-12-68 has been forwarded by the Ministry of Finance (Deptt. of Economic Affairs) to the Lok Sabha Secretariat in respect of S. No. 9 (Para 1.29) and S. No. 10 (Para 1.31) excepting the first sentence of this Para). This Department, therefore, is concerned with S. No. 10(Para 1.80) and first sentence of S. No. 10(Para 1.31).

Para 1.30 of S. No. 10, indicates the factual position on which no comments are evidently necessary. As regards the observations of the Committee in the first sentence of Para 1.31, the position has been explained in this Department's action taken note in respect of S. No. 7 of Appendix V of the P.A.C.'s 28th Report (4th Lok Sabha) forwarded to the Lok Sabha Secretariat. (Advance copy sent to Lok Sabha Secretariat with Department's Memorandum No. PI-13(1)/68, dated 23-12-1968).

Ministry of W.H.S. (Deptt. of Supply) No. PI-13(1)/68, dated 6-1-69.

Recommendation

In view of these facts the Committee are not able to appreciate the plea that the U.P.C.C. (Pvt.) Ltd., do not have enough liquid assets to pay back the advance of Rs. 1.85 crores (together with interest thereon) which have been retained by them in an unauthorised manner without duly delivering road rollers.

[Para 1.32 (S. No. 11 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

The Department of Company Affairs who were consulted in the matter, have in their communication received in this Department on 24-6-1968, offered the following comments:—

“In the absence of the up-to-date account books and records of U.P.C.C. (P) Ltd., it is not possible for the Department of Company Affairs to ascertain the liquid assets of the company to verify whether the company can pay back the advance of Rs. 1.85 crores.”

Ministry of W.H.S. (Deptt. of Supply) No. PI-13(1)/68, dated 23-12-68.

Immediate

No. F. 8(4)/BGT/68

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY, INTERNAL TRADE AND
COMPANY AFFAIRS

DEPARTMENT OF COMPANY AFFAIRS

Shastri Bhavan, 5th Floor, A Wing, Dr. R. P. Road.

New Delhi-1, the 24th Feb. 1969.

OFFICE MEMORANDUM

SUBJECT:—*Public Accounts Committee—Action taken on the 28th Report of the Public Accounts Committee (Fourth Lok Sabha).*

The undersigned is directed to refer to O.M. No. 2/1/29/68/PAC, dated 10th February, 1969 from Lok Sabha Secretariat to the

Ministry of Works, Housing & Supply (Department of Supply—Shri V. P. Gulati, Deputy Secretary), copy endorsed to this Department on the above subject and to give below the information called for therein pertaining to Recommendation at S. No. 11 of the 28th Report. It is requested that a suitable reply may be sent to the Lok Sabha Secretariat with a copy thereof to this Department :—

S. No. 11

It has been stated by the Department of Company Affairs that in the absence of the up-to-date account books and records of U.P.C.C. Pvt. Ltd., it was not possible for the Department of Company Affairs to ascertain the liquid assets of the company to verify whether the company could pay back the advance of Rs. 1.85 crores.

Please State :

(i) *Whether any scrutiny has been carried out of the accounts of the company as available for checking the where abouts of the amount drawn by the company from Government and its capacity to repay the moneys.*

This Department carried out an inspection of the account books and records that were made available by the company under section 209(4) of Companies Act, 1956 and furnished copies of the inspection reports to the Department of supply for necessary action. Details of loans and advances compiled as per available records, were mentioned at pages 8 to 12 of the said report.

It was also noticed during the course of the inspection that the accounts books made available for inspection were not complete and no audited balance sheet later than 1965 had been made available. It would, therefore, be appreciated that in the absence of complete and up-to-date accounts books and records, it has not been possible for the Department of Company Affairs to ascertain as to how the amount of Rs. 1.85 crores had been utilised by U.P.C.C. Private Limited, but the available details (as in 1965) have already been furnished to the Department of Supply as mentioned above. It may be reiterated that in the absence of up-to-date account books and records of U.P.C.C. Private Limited, it is not possible for this Department to ascertain the present position of the liquid and other assets of the company and its capacity to repay the Government moneys.

(ii) *Whether the Central Bureau of Investigation has looked into this aspect of the case. If not, Government may examine the question of asking the Central Bureau of Investigation to look into this aspect.*

The Department of Supply may examine this aspect in consultation with the Central Bureau of Investigation and do the needful in the matter.

Sd/-

Deputy Secretary to the Government of India.

To

The Ministry of Foreign, Trade and Supply,
Department of Supply (Shri V. P. Gulati,
Deputy Secretary),
NEW DELHI.

No. F.8(4)/BGT/68

Copy together with a copy of extracts from pages 7 to 12 of the Inspection Report of U.P.C.C. forwarded for information to the Lok Sabha Secretariat, Parliament House, New Delhi, with reference to that Secretariat endt. No. 2/1/29/68/PAC, dated the 10th February, 1969.

Deputy Secretary to the Government of India.

Recommendation

The Committee consider that Government should have pressed the firm to file an affidavit of their assets so that they had a clear picture of their assets in order to compel the firm to return the advance of Rs. 1.85 crores unauthorisedly retained by it.

[Para 1.35 (S. No. 13 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

The matter has been considered in consultation with the Ministry of Law and the Government Counsel who have advised on 6-7-68 & 8-7-68 that in view of the various proceedings pending in the Courts, it would not be practicable to obtain an affidavit from the firm as suggested by the Committee.

Ministry of Works, Housing & Supply, (Department of Supply)

No. PI-13(1)/68. Dt. 31-1-69.

Recommendation

The Committee note that the firm have offered to supply road rollers in instalments and that, as a token of their *bona-fides*, they have submitted to Government shares of the aggregate face value of Rs. 20 lakhs pertaining to allied concerns held either in the name of the partnership concern (M/s. U.P.C.C.) or in the name of individual directors. The Committee note that the arrangement with the firm would cease to exist "as and when the interim injunctions in respect of blacklisting orders etc. were vacated by the High Court." The Committee would not like to go into the detailed implications of this proposal as they have no doubt that Government will take proper care to safeguard public interest. They would, however, like to

sound a note of caution and to stress that, while taking a decision on the offer of the firm, the Government should keep in view the following aspects of this case :—

- (i) The legal implications of the proposal made by the firm.
- (ii) The effect that such an arrangement would have on the suits filed by Government and on the launching of criminal proceedings against the firm or relevant individual in a court of law, particularly, when it is understood that investigation in seven cases have almost been finalised.
- (iii) Whether the requirement of road rollers by the indentors still holds good and how far these road rollers to be supplied by the firm will meet requirements, particularly in view of the past experience of defective rollers supplied by the firm and the reported poor after sale-service. (of Paras 4.7, 4.10 and 4.25 of First Report—4th Lok Sabha).
- (iv) The implications of the acceptance of road rollers offered by the firm on the extension of the date of delivery of contracts, the recovery of interest charges (which worked out to Rs. 29 lakhs on 31.12.1966) for the advance retained by the firm and the recovery of damages on account of losses (actual or potential) suffered by the indentors on account of delay/non-supply of road rollers.
- (v) Whether acceptance of the proposal may enable the firm to misrepresent the position either to the other Ministries of Government of India or to State Governments or Statutory autonomous authorities.
- (vi) The present Intrinsic value and the genuiness of the shares offered by the firm as a security.
- (vii) An examination of the lien on the amount of Rs. 20 lakhs for the purchase of shares out of Rs. 50 lakhs advanced by the company in advance of the allotment of the same by Assam Sillimanite Limited.
- (viii) Whether the firm will be in a position to fulfil their promise to supply road rollers in the light of their past performance.
- (ix) Its impact on the request made by the firm for permission to purchase shares of the Indo-Burma Petroleum Co. Ltd. at a time when the firm have not paid back the advance of Rs. 1.85 crores unauthorisedly drawn by them and interest thereon either in cash or by the supply of road rollers.

[Para 1.36 (S. No. 14 of Appendix V) of the 28th Report (4th Lok Sabha)].

Recommendation

The Committee cannot too strongly stress that, in examining this proposal of M/s. U.P.C.C. in all its ramification, Govt. will make sure that not only will the firm in fact deliver the road rollers in accordance with their offer, but also that the right of the Govt. to

take criminal action as a result of the current investigations by the C.B.I. or any other Govt. agency is not fettered or prejudiced in any manner.

[Para 1.37 (S. No. 15 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

In pursuance of the above recommendation, the proposed arrangement for the supply of outstanding road rollers in instalments by M/s. U.P.C.C. (P) Ltd. Calcutta on furnishing of certain securities and prescribed undertaking, was reviewed in all its aspect in a meeting held on 12th June, 1968 in which the representatives of the Ministry of Finance, Law, Deptt. of Company Affairs, C.B.I. and DGS&D were associated. It was felt that in view of the inability of the Company to complete various preliminaries, the nature and intrinsic value of the securities offered and other relevant factors and also their omission to make the instalment monthly deliveries, Government did not consider it in the public interest to proceed with the proposed arrangement with M/s. U.P.C.C. (P) Ltd. The Company was informed of the Government's intention not to proceed with a separate colateral arrangement with them *vide* the Department of Supply's letter No. PI-12(22)/67-Vol.III dated 22nd June, 1968 (copy enclosed), and were, simultaneously advised that in case the Company was in a position to make any supply of road rollers in satisfaction of any of the contracts of supply entered into with the Government, Govt. would be willing to accept supply of the same under the orders of the Court, whenever a supply was relatable to any pending suits. In such a case, the Company was asked to offer the deliveries to the Director of Inspection, Calcutta who has also been given instructions to accept the same after due inspection.

Meanwhile, on application filed by certain other Creditors, the Calcutta High Court has passed orders for the winding up of the UPCC(P) Ltd., their allied concern, Agring Fabrications Ltd., and for the apointment of an official Liquidator for administering the assets of the two companies. Under Section 446 of the Companies Act, 1956, the suits already filed by Government in the Delhi High Court, cannot now be proceeded with against the company except under the orders of the Calcutta High Court, which passed the orders of liquidation. The matter is now being further examined in consultation with the Ministry of Law to pursue our claims against the company's liquidator.

It may also be stated that other completion of investigations, the Central Bureau of Investigations have since filed, in the Court of the Judge, 4th Addl. Spl. Court, Calcutta, a complaint (charge-sheet) on 26.8.68 against the Directors and employees of M/s. UPCC(P) Ltd. and the Government officials who were alleged to have adopted fraudulent practices in this case.

Ministry of Works Housing and Supply. (Department of Supply).
No. PI-13(1)/68. Dt. 23-12-68.

No. PI-14(22)/67-Vil.III

GOVERNMENT OF INDIA
MINISTRY OF WORKS, HOUSING AND SUPPLY
(DEPARTMENT OF SUPPLY)

*Nirman Bhavan,
New Delhi, the 22nd June, 1968.*

To

M/s. United Provinces Commercial Corporation Private
Limited,
Marshall House,
Hanuman Road,
New Delhi-1.

SUBJECT :—*Supply of Road Rollers.*

Dear Sirs,

Please refer to the correspondence resting with your letter No. 128 dated May 21/24, 1968.

2. In letter No. PI-14(22)/67 dated February 12/13, 1968, the Government expressed their willingness to accept supply of Road Rollers from your Company, of the quantities and as per the delivery schedule specified in that letter subject to the conditions that your Company furnishes security for due performance by the deposit of shares and by giving an undertaking as specified in the said letter. The arrangement was a separate and independent arrangement which was apart from and without prejudice to the terms and conditions of the various contracts and to the contentions and pleadings of parties in proceedings before the Courts. However, it is noticed that although several months have elapsed, your Company has not supplied the Road Rollers as stipulated in the said letter. Nor has the Company complied with the conditions set out in paragraph 2 of the said letter. It is also understood that your Company is not in a position to supply any Road Rollers. In these circumstances the arrangement contemplated in the aforesaid letter dated February 12/13, 1968 cannot be said to have come into operation. Even assuming that it had come into operation, you had committed breach thereof. In the circumstances, the Government have decided not to proceed with the same.

3. In pursuance of the aforesaid letter you have deposited certain scrips purporting to be shares of the face value of Rs. 29 lakhs. As you are aware, these were also the subject matter of the injunction order issued by the Delhi High Court *inter-alia* prohibiting your Company from transferring or dealing with these scrips or shares. The Honourable High Court was pleased to allow the transfer of these shares to the Government with a view to enable you to enter into the contemplate arrangement.

4. In view of the position stated in para 3 above these scrips and shares will have to be again brought within the purview of the aforesaid orders of injunction by the High Court. Steps are being taken in this regard.

5. Without prejudice to what has been stated in the aforesaid paragraphs, you are informed that in case the Company is in a position to make any supplies of Road Rollers in satisfaction of any of the contracts of supply entered late with the Government, Government would be willing to accept supply of the same under the orders of the Honourable Court whenever a supply is relatable to any pending suit. In such a case the Company may kindly offer the deliveries to the Director of Inspection, Calcutta who has been given instructions to accept the same after due inspection.

6. This is without prejudice to the terms and conditions of the various contracts and to the pleadings and contentions of parties in the proceedings pending before the Courts.

Yours faithfully
Under Secretary to the Government of India.

Copy forwarded to DGS&D, New Delhi, for taking further action immediately. Suitable instructions may also be issued to Director of Inspection, Calcutta, regarding undertaking inspection, and DS&D., Calcutta, regarding taking delivery of Road Rollers mentioned above, in the light of the above instructions.

Sd /-
Under Secretary to the Government of India.

Recommendation

“The Committee note that the project Directorate have reported that out of 23 cases where orders had been placed on M/s. UPCC Ltd., there are 4 cases as mentioned above which smack of fraudulent dealings of the firm and which were referred to the Central Bureau of Investigation for investigation in June and September, 1967. The Committee desire that the Central Bureau of Investigation should complete their investigation of these cases expeditiously.”

[Para 2.52 (S. No. 31 of Appendix V) of 28th Report (4th Lok Sabha)]

“The Committee would like the Department of Supply to ensure that, in the case of offers placed by other Directorates where either the goods have not been supplied or other malpractices have been indulged in by M/s. U.P.C.C. and/or its others associate companies, the cases are referred to the C.B.I. for investigation.”

[Para 2.53 (S. No. 32 of Appendix V) of 28th Report (4th Lok Sabha)].

Action taken

The observations of the P.A.C. were brought to the notice of all Purchase Directorates in the D.G.S.&D with the instructions to take immediate action in respect of cases which had to be referred to the C.B.I. for investigation, in the light of this recommendation.

As a result of review by all the Directorates, the position is as follows :—

1. Project Dte. have referred 4 cases for supply of stores other than Road Rollers to the C.B.I. for investigation.
2. In one case for supply of Bitumen Distributor Tanks being dealt with in Mechanical Engineering Dte. a final notice has been given to the firm for completion of supply. This case has not been referred to the C.B.I., as they do not seem to have committed any criminal offence.
3. Two cases for supply of spares for road rollers being processed by P&D Dte. have since been referred to the C.B.I. for investigation.

A statement giving details of the aforesaid seven cases is attached. The C.B.I. is being asked to expedite completion of their investigation in respect of the four cases referred to them in June and September, 1967 as desired by the Committee in para 2.52 of their recommendations.

Ministry of W.H.S. (Deptt. of Lab.)

NEW DELHI;

December, 1968.

No. PI-13(1)/67.

Statement showing details of cases for stores other than road rollers reported to C.B.I.

A/T No. & date	Stores & Quantity	Malpractice in brief & in general terms.	Date on which reported to C. B. I.
Project Directorate			
7. Proj./34001-P/ 631 dated 12-9-63	Dragline Bucket with attachments 4 Nos.	Stores which were originally to be delivered to consignee in Delhi were to be diverted to a consignee in Punjab, Delhi consignee advised that stores might have been received by the consignee in Punjab. Despite reminders no reply received from the Punjab consignee. It is suggested that the stores were not supplied but payment was obtained by the firm.	26-6-1967
2. Proj./307-308-309-N/1/UPCC/ 385 dt. 4-9-62.	Soil Stabilizers 25 Nos.	It is suspected that the firm obtained payment by quoting fictitious R/R No. and date on their bill.	28-6-1967
3. Proj./3047-N (A)/III/A/UPCC/ 1/642 dated 25-9-1963.	Michigan Tractor Dozer with attachments. 4 Nos. & with 4 sets (i.e. 16 Nos. of indigenous tyres.)	It is suspected that the firm obtained payment for 3 sets of tyre which they did not actually supply.	15-6-1967

1	2	3	4
M.E. Directorate			
4. Proj./311-313-314-315-N/UPCC/373 dated 21-8-1962	Tractor Dozers 37 Nos.	On No. Tractor taken back for repairs has not been returned by the firm.	21-9-1967
5. SV-1/257/3-5A/III/69, dt. 27-2-1965	Bitumen Distributor Tanks 5 Nos.	Firm have not completed supplies and 3 chassis are lying with them.	On 20-8-68 a notice was given to the firm for completion of supplies or return the chassis within the notice period. As no reply was received from them, presumably due to thier having gone into liquidation, the case has been referred to the Ministry of Law on 23-11-1968 for their advice whether the 3 chassis, partly mounted with Bitumen Tanks by the firm, which are the Government property, should be demanded back from the Official Liquidator in the same condition as these were when given to the firm or alternatively, a claim for recovery of Rs. 1,03,843.20 representing the cost paid by us to the supplier of the Chassis—M/s. Hindustan Motors Ltd., Calcutta may be filled with him. Ministry of Law's advice is still awaited. The case has not yet been referred to the C. B. I. as the firm did not seem to have committed any criminal offence.
P & D. Directorate			
6. SV-1/218-71/1714/15-3-66/II/Spares/177 dt. 31-5-66	Spares for Agrind Moore Road Rollers.	Firm obtained 95% payment but the consignee has stated that no spare parts received uptill now.	25-11-1968
7. SV-2/2227/027 A/II/Spares/UPCC/II/856, dt. 23-9-64.	Do.	The firm obtained 95% payment without despatching the stores.	14-11-68

Recommendation

"The Committee also find from the replies of the Department of Supply in respect of the Recommendations contained in Paras 3.9, 3.72, 4.49, 4.75 to 4.78, 5.10-5.12, that the vigilance aspect/fixing of responsibility in these cases is under examination. The Committee desire that examination of these cases should be finalised without delay so that the persons found at fault do not escape disciplinary action."

[Para 2.59. (S. No. 35 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

The disciplinary aspect will be examined as soon as the relevant records are made available by the Central Bureau of Investigation.

Ministry of Works, Housing and Supply.

NEW DELHI;

December, 1968.

No. PI-13(1)/68.

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

Recommendation

“The Committee would like Government to take urgent steps to recover the amount.”

[Para 1.38 (S. No. 12 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

Government have instituted 23 suits against 23 Acceptances of Tender in the Delhi High Court against the firm for specific performance of the contracts and or recovery of the amount with interest thereon. The suits are being processed.

2. Meanwhile, on applications filed by certain other Creditors, the Calcutta High Court has passed orders for the winding up of the UPCC (P) Ltd., and their allied concern, Agrind Fabrications Ltd., and for the appointment of an official liquidator for administering the assets of the two companies. Under Section 446 of the Companies Act, 1956, the suits already filed by Government in the Delhi High Court, cannot now be proceeded with against the company except under the orders of the Calcutta High Court, which passed the orders in liquidation. The matter is now being further examined in consultation with the Ministry of Law to pursue our claims against the company/liquidator.

Ministry of Works, Housing and Supply (Department of Supply).

NEW DELHI
December, 1968;
No. PI-13(1)/68.

Recommendation

“The Committee are of the view that, if the Chief Pay & Accounts Officer had been consulted as enjoined by para 265 of Manual of Office Procedure for Supplies, Inspection and Disposals and the principles outlined in office orders of 24.5.1963 and 22.11.1963 had been applied in this case, it should have been possible to safeguard Government's interests. The Committee desire that the failure in the above respects should be investigated and action taken against the parties found at fault and report to the Committee.”

[Para 2.4 (S. No. 17 of Appendix V) of the 28th Report (4th Lok Sabha)]

Action taken

Para 265 of the Manual has since been amended as indicated in the Action Taken Note below Recommendation made in Para. 2.23 (S. No. 23 of Appendix V).

As regards the omission on the part of the D.G.S.&D. in not consulting the Chief Pay & Accounts Officer before authorising 90% advance payment on proof of inspection and before despatch of stores as laid down in para 265 of the Manual, it may be mentioned that this aspect is already under investigation of the C.B.I., and further action will be taken on receipt of their report.

Ministry of Works, Housing and Supply (Department of Supply).

NEW DELHI,
31st January, 1969.

No. PI-13(1)/68.

Recommendation

"As regards the placing of orders on unregistered firms, the Committee suggest that where it is proposed not to consult the Ministry of Finance, Government should obtain adequate security deposits to safeguard their interests. The Committee feel that where large orders of say Rs. 5 lakhs and above are placed on an unregistered firm it would be in Government's own interest to have the standing of the firm thoroughly checked in consultation with the Ministry of Finance."

{Para 2.20 (S. No. 22 Appendix V) of the 28th Report (4th Lok Sabha)}

Action taken

The matter is under examination and the Public Accounts Committee will be informed of the decision taken.

Ministry of Works, Housing and Supply (Department of Supply).

NEW DELHI
December, 1968.

No. PI-13(1)/68.

Recommendation

"The Committee note that Government are contemplating revision of the procedure to ensure that a supplier cannot get away with advance payment without actually despatching the complete goods after inspection. If the revision of the procedure is likely to take some more time, the Committee suggest that instructions should in the meantime be issued forthwith to all consignees to bring promptly all cases of short supplies to the notice of the Pay and Accounts Officer concerned for appropriate action."

{Para 2.26 (S. No. 24 of Appendix V) of the 28th Report (4th Lok Sabha)}

Action taken

Remedial measures against firms obtaining advance payments fraudulently are under the consideration of this Department. Meanwhile, instructions have been issued to all Indenting Departments

with the Department of Supply's O.M. No. PI-9(9)/67, dated 11.4.1968 (copy enclosed) that any shortages/discrepancies found in the stores received by the consignees should be reported promptly to the Pay and Accounts Officer concerned to enable him to withhold payment to the firm.

No. PI-13(1)/68, dated 27.12.1968.

Further information required

It has been stated that "Remedial measures against firms obtaining advance payments fraudulently are under consideration of this Department."

Please state the decision taken in the matter.

Reply of Government

The matter is under active consideration in consultation with the Ministry of Railways, and the Chief Pay and Accounts Officer and the decision taken will be intimated to the Public Accounts Committee.

Ministry of Works, Housing and Supply (Department of Supply).

NEW DELHI;
25th April, 1969.

No. PI-13(1)/68.

PI-9(9)/67

MINISTRY OF WORKS, HOUSING AND SUPPLY

(DEPARTMENT OF SUPPLY)

New Delhi, the 11th April 1968

OFFICE MEMORANDUM

SUBJECT:—*Payment Procedure—Measures regarding for preventing unscrupulous firms from getting payments against BGS&D contracts by quoting fictitious/bogus Railway Receipt numbers and date in their bills.*

The undersigned is directed to say that a number of cases have come to light where firms have misused the facility of 95%/98% advance payment payable against proof of despatch in respect of contracts placed by the DGS&D and have obtained such advance payments by quoting fictitious/bogus R/R No. and date in their bills without actually despatching the stores. This facility of advance payment can similarly also be misused by firms by offering for Railway booking, stores other than the contracted & inspected stores or in quantities smaller than those shown on the Inspection notes & claiming advance payment in their bills for the contracted stores or for the entire quantity shown on the Inspection Notes.

2. This Department is seized of the problem and various measures to check this practice on the part of firms are being considered. While considering such preventive measures, it has been felt that

it will be desirable if the consignees report promptly to the Pay & Accounts Officer concerned any shortages or other discrepancies in the contracted stores to enable him to withhold payment to the firm.

3. Ministry of Defence etc. are accordingly requested to kindly issue suitable instructions to various consignees under their control to the effect that against contracts placed by the DGS&D on their behalf, they should promptly report to the P&AO concerned any cases of shortages/discrepancies found in the stores received by them.

Sd/-

Under Secretary to the Govt. of India

To

All Ministries/Departments of the Govt. of India/Union Territories.

All state Govts.

All Public Sector Undertakings.

DGS&D, New Delhi.

Copy to :—

All sections in Dept. of Supply
Guard File.

Sd/-

Under Secretary to the Govt. of India

Recommendation

“It is obvious that not only was it incumbent on the office of the D.G.S.&D. to mark a copy of the A/T to the Progress Wing, but also on the Progress Wing to ensure that the stores were actually despatched, as the order was admittedly on an unregistered firm. The Committee would like Government to investigate the matter further in the light of this and fix responsibility for failure to mark the A/Ts to the Progress Wing.”

[Para 2.31 (S. No. 25 of Appendix V) of the 28th Report (4th Lok Sabha)].

Action taken

The relevant records of the D.G.S.&D. are presently with the C.B.I. The circumstances in which a copy of the A/T was not endorsed to the Progress Wing will be examined, as soon as the relevant records are received back in the D.G.S.&D. The responsibility for default, if any, will also be fixed.

Ministry of Works, Housing and Supply (Department of Supply).

NEW DELHI,
31st January, 1969.

No. PI-13(1)/68.

Recommendation

"The Committee are not convinced by the Ministry's explanation that the fluctuations in the monthly output of M/s. Agrind Fabrications are not of much significance and therefore did not attract the attention of the visiting Inspectors because they are used to such fluctuations". The real point is that the firm were expected to increase their production from 20 to 30 road rollers per month in view of the relaxed terms of payment, but verification of this increase which was imperative in the circumstances was not carried out by the inspectorate. The Ministry appear now to take into account the firm's recorded annual production figures which showed an average of 30 per month for 1964 and 1965 though, in the evidence before the Public Accounts Committee the Secretary to the Department of Supply had admitted that "it (production capacity) was not checked up, capacity certainly was not even 30 per month." (of para 3.62 of the First Report of the Public Accounts Committee—Fourth Lok Sabha)."

[Para 2.38 (S. No. 26 of Appendix V) of the 28th Report (4th Lok Sabha)].

Action taken

When adequate number of road rollers were regularly put up for inspection, as required, verification of capacity or increased capacity was not called for in the normal course of duty by the Inspectorate and was not done. The Capacity had, however, come up to 30 numbers per month at least on paper although events which subsequently came to light proved that capacity was not even 30 per month.

It was on the basis of subsequent events that the Secretary, in his evidence before the Public Accounts Committee correctly stated that :—

"It (Production capacity) was not checked up; capacity certainly was not even 30 per month."

Ministry of Works, Housing and Supply (Department of Supply).

NEW DELHI,
31st January 1969.

Recommendation

The Committee note that the question of likely collusion of the inspectors is under investigation by the Central Bureau of Investigation. The Committee would like to await the outcome of the investigation.

[Sl. No. 27 (Para 2.39) of Appendix V of 28th Report (Fourth Lok Sabha)].

Action taken

Likely collusion of the Inspectors along with the officers of the firm is under investigation. Further action will be taken as soon as the investigation is completed, depending on the evidence that is available in respect of each of them.

Further information giving latest position

Investigation regarding the collusion of Inspecting Officers with the employees of the firm has since been completed. In respect of two of the Inspecting Officers, a chargesheet under section 120-B/420 IPC and Sec. 5(2) of the Prevention of Corruption Act, Sec. 420, 477-A IPC and Sec. 5(2)/5(1) (d) of Act. II of 1947 has been filed. Investigation in respect of four other Inspecting Officers who are similarly involved, has been completed and S.P's report along with draft sanction order for prosecution of the officers has been sent to the Ministry of Works, Housing and Supply in respect of one officer on 31st October, 1968 and to Ministry of Industrial Development and Company Affairs in respect of the other in January, 1969, and to the Central Vigilance Commission. As soon as necessary sanction required under the Law is received, further action would be taken.

Min. of Home Affairs Letter (226/18/68-AVD.II). dt. 6-2-69.

Recommendation

"The Committee note from the reply given to para 8.11 that Government are thinking of prescribing a comprehensive insurance policy to be taken out by a firm which is allowed relaxation in terms of payment so as to recover the following eventualities :—

- (i) Wrongly withholding delivery;
- (ii) delaying delivery without any justifiable cause; and
- (iii) converting the property entrusted."

[Para 2.47 (S. No. 28 of Appendix V) of the 28th Report (4th Lok Sabha)].

"The Committee would like Government to finalise these proposals at an early date and implement them to avoid a recurrence of such case."

[Para 2.48 (S. No. 29 of Appendix V) of the 28th Report (4th Lok Sabha)].

Action taken

The above two recommendations of the Committee have been noted for implementation. The final decision will be intimated to the P.A.C. in due course.

No. PI-13(1)/68, dated 27.12.1968.

Further information required

In response to the Committee's recommendations that Government should finalise the proposals of prescribing a comprehensive insurance policy to be taken out by a firm which is allowed relaxation in terms of payment, it has been stated that "the recommendations of the Committee have been noted for implementation."

Please state the progress made in finalising the proposals.

Reply of Government

The question that a comprehensive insurance policy should be taken out by the firms who are allowed relaxation in standard terms

or payment, is under active consideration of this Department in consultation with the Chief Pay and Accounts Officer and the Ministry of Finance. Public Accounts Committee will be informed as soon as a decision is taken in this matter.

Ministry of Foreign Trade & Supply
(Department of Supply)

NEW DELHI: April 25, 1969.

No. PI-13(1)/68.

M. R. MASANI,
Chairman,
Public Accounts Committee

NEW DELHI;
April 28, 1969.

Vaisakha 8, 1880 (S)

APPENDIX

Summary of Main Conclusions/Recommendations

S. No.	Page No. of Report	Department/Ministry concerned	Recommendation
1.	1-12	Department of Supply	The Committee note that Government have filed a charge sheet against 17 accused including the Chairman and Directors of M/s. U. P.C.C. Pvt. Ltd. and Government officials with whose collusion the firm allegedly defrauded the Government by putting up the same engine for inspection more than once and obtained 90% of payment.
	1-13		The Committee also note that it is proposed to file a charge sheet against four more Assistant Inspecting Officers/Inspecting Officers. The Committee desires that charge sheet against them should be finalised and filed without delay.
	1-14		The Committee need hardly stress that prosecution should be vigorously pursued so as to bring to book all those who have been during investigation found to be responsible for defrauding the Government of the huge amount of Rs. 1.85 crores.
2.	1-20	Do.	The Committee desire that in the light of findings of the Central Bureau of Investigation Government should finalise their decision about taking disciplinary and other action against all those held responsible for losses in this case.
3.	1-22	Do.	The Committee note that on an application filed by certain creditors, the Calcutta High Court have passed orders for winding up U.P.C.C. Pvt. Ltd. and their allied concern M/s. Agrind Fabrications Ltd. and for the appointment of an official liquidator for administering the assets of the two companies. The Committee have no doubt that Government would press its claims with the official liquidator so as to effect the maximum recovery possible.
	1-23		The Committee suggest that Government should also examine whether their claims can be enforced against the other allied concerns of the M/s. U. P. C. C. Pvt. Ltd. or the Directors of the company.
4.	1-35	Do.	The Committee consider that it is of the utmost importance to ascertain how the amount of Rs. 1.85 crores overdrawn fraudulently by the firm has been disposed of by them. The Committee suggest that Government should use all available agencies including the Central Bureau of Investigation to thoroughly probe into the matter.

1	2	3	4
1-36	Department of Supply		The Committee stress that investigations should be followed up by necessary action so as to recover as much as possible of the amount fraudulently overdrawn by the firm.
1-37		Do.	The Committee consider that as soon as it came to the notice of the Department of Supply that huge amounts had been overdrawn fraudulently by M/s. U.P.C.C. the Department should have brought this to the notice of the Department of Economic Affairs in particular and other Ministries Departments. This would have the Department of Economic Affairs and other Government departments to process all pending matters pertaining to N.S. U.P. C.C. Pvt. Ltd. in the light of these known facts.
5. 14		Do.	The Committee desire that the Central Bureau of Investigation should expedite the investigation of the 6 cases (S.Nos.1-4, 6 and 7), 3 of which were referred to them as early as June 1967. The Committee also desire that action against the firm in the case relating to Bitumen distributor should be finalised expeditiously in consultation with the Ministry of Law.

Sl. No.	Name of Agent	Agency No.	Sl. No.	Name of Agent	Agency No.
DELHI			33.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi-1.	68
24.	Jain Book Agency, Connaught Place, New Delhi.	11	34.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
25.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Moti Gate, Delhi.	3	35.	The United Book Agency, 48, Amrit Kaur Market, Pahar Ganj, New Delhi.	88
26.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	9	36.	Hind Book House, 82, Janpath, New Delhi.	95
27.	J. M. Jaina & Brothers, Mori Gate, Delhi.,	11	37.	Bookwells, 4, Sant Narakari Colony, Kingsway Camp, Delhi-9.	96
28.	The Central News Agency, 23/90, Connaught Place, New Delhi.	15	MANIPUR		
29.	The English Book Store, 7-L, Connaught, Circus, New Delhi.	20	38.	Shri N. Chaoba Singh, News Agent, Ramlal Paul, High School Annexe, Imphal.	77
30.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23	AGENTS IN FOREIGN COUNTRIES		
31.	Bahree Brothers, 188 Lajpatrai Market, Delhi-6.	27	39.	The Secretary, Establishment Department, The High Commission of India, India House, Aldwych, LONDON, W.C.-2.	59
32.	Jayana Book Depot, Chaparwala Kuan, Karol Bagh, New Delhi.	66			

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