

**PROCUREMENT OF SOLAR  
PHOTO VOLTAIC PANELS**

**MINISTRY OF COMMUNICATIONS  
(DEPARTMENT OF TELECOMMUNICATIONS)**

**PUBLIC ACCOUNTS  
COMMITTEE  
1998-99**

**TWELFTH LOK SABHA**

31R

6

SECRETARIAT

**NINTH REPORT**  
**PUBLIC ACCOUNTS COMMITTEE**  
**(1998-99)**

**TWELFTH LOK SABHA**

**PROCUREMENT OF SOLAR PHOTO  
VOLTAIC PANELS**

**MINISTRY OF COMMUNICATIONS**  
**(DEPARTMENT OF TELE-  
COMMUNICATIONS)**



*Presented to Lok Sabha on 21.04.1999*  
*Laid in Rajya Sabha on 23.04.1999*

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

*April, 1999/Vaisakha, 1921 (Saka)*

Price: Rs. 22

**PARLIAMENT LIBRARY**

Centre Govt Publications

Acc. No. 01313 (7)

Date 23/4/99

LC

351.7231R

N8.9.6

© 1999 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Ninth Edition) and Printed by the Manager, P.L. Unit, Government of India Press, Minto Road, New Delhi.

**CORRIGENDA TO NINTH REPORT OF PUBLIC ACCOUNTS  
COMMITTEE (12TH LOK SABHA)**

Page	Para	Line	For	Read
12	45	22nd from bottom	as to the how	as to how
12	46	8th from bottom	or	for
12	-do-	7th from bottom	largere	larger
12	-do-	4th from bottom	period of our	period of four
18	59	20	SPC	SPV
18	63	16th from bottom	go orders	got orders
37	Sl.No. 7 (Para 61)	18th from bottom	penels	panels
40 ▲	Sl.No.10 (Para 64)	19th from bottom	other thing	other things

## CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (1998-1999) .....	(iii)
INTRODUCTION .....	(v)
REPORT .....	1
APPENDIX I Audit Paragraph 9.1 of the Report of the Comptroller and Auditor General of India for the year ended 31 March, 1996 (No. 6 of 1997), Union Government (Post and Telecommunications).....	27
APPENDIX II Recommendations and Observations .....	33
<b>PART II</b>	
Minutes of the sittings of Public Accounts Committee held on 29.9.1997 and 7.4.1999 .....	46—49

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE  
(1998-99)

Shri Manoranjan Bhakta — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Prithviraj D. Chavan
3. Shri Ram Tahal Chaudhary
4. Smt. Bhavna Chikhalia
5. Shri C. Gopal
6. Shri Vijay Kumar Khandelwal
7. Maj. Gen. B.C. Khanduri
8. Prof. Ajit Kumar Mehta
9. Shri Rupchand Pal
10. Shri M. Rajaiah
11. Shri Ch. Vidyasagar Rao
12. Dr. T. Subbarami Reddy
13. Shri Prabhat Kumar Samantaray
14. Shri K. Natwar Singh
15. Prof. Saifuddin Soz

*Rajya Sabha*

16. Shri Md. Salim
17. Shri K.R. Malkani
18. Shri Satishchandra Sitaram Pradhan
19. Shri J. Chitharanjan
20. Shri Jayant Kumar Malhoutra
21. Shri Vayalar Ravi
22. Shri K. Rahman Khan

SECRETARIAT

- |                        |   |                             |
|------------------------|---|-----------------------------|
| 1. Dr. A.K. Pandey     | — | <i>Additional Secretary</i> |
| 1. Shri P.D.T. Achary  | — | <i>Joint Secretary</i>      |
| 3. Shri Devender Singh | — | <i>Deputy Secretary</i>     |
| 4. Shri S.C. Kaliraman | — | <i>Assistant Director</i>   |

## INTRODUCTION

I, the Chairman, Public Accounts Committee having been authorised by the Committee, do present on their behalf, this Ninth Report on Paragraph 9.1 of the Report of the Comptroller and Auditor General of India for the year ended 31 March, 1996, No. 6 of 1997, Union Government (Post & Telecommunications) relating to "Procurement of Solar Photo Voltaic Panels".

2. The Report of the C&AG for the year ended 31 March, 1996 (No. 6 of 1997), Union Government (Post & Telecommunications) was laid on the Table of the House on 20 March, 1997.

3. The Committee took the evidence of the representatives of the Ministry of Communications (Department of Telecommunications) on the subject at their sitting held on 29 September, 1997. The Committee considered and finalised this Report at their sitting held on 7 April, 1999. Minutes of the sitting form Part-II of the Report.

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

5. The Committee would like to express their thanks to the Public Accounts Committee (1997-98) for taking evidence on Paragraph 9.1 and obtaining information thereon.

6. The Committee would like to express their thanks to the officers of the Ministry of Communications (Department of Telecommunications) for the cooperation extended by them in furnishing information and tendering evidence before the Committee.

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

NEW DELHI;  
13 April, 1999

23 Chaitra, 1921 (*Saka*)

MANORANJAN BHAKTA,  
*Chairman,*  
Public Accounts Committee.

## REPORT

This Report is based on Audit Paragraph 9.1 of the Report of Comptroller and Auditor General of India for the year ended 31 March, 1996 (No. 6 of 1997), Union Government (Post and Telecommunications) relating to "Procurement of Solar Photo Voltaic Panels" which is appended as Appendix-I.

2. The Solar Photo Voltaic (SPV) panels are used by the Department of Telecommunications (DoT) in long distance village public telephones. These SPV panels are manufactured/assembled indigenously using imported silicon wafers and other material, which are then converted into SPV modules. According to Audit, the various acts of omission and commission of DoT extended undue benefit of Rs. 24.03 crore to the suppliers in purchase of 88000 SPV panels at a cost of Rs. 210.41 crore, which were used in rural telecom network during 1991-95. It placed commercial orders on ineligible firms after entertaining post bid interventions from them. DoT did not enforce the provision of the purchase order to safeguard the interest of the Government which led to extending favours to the firms. It did not short close the tender after expiry of the delivery schedule, even when it was aware of steep reduction of prices of SPV panels. Besides, DoT adopted discriminatory treatment towards some firms, both in placement of supply orders as well as in prescribing the delivery period and favoured the private firms at the cost of proven Public Sector Undertakings (PSUs). Repeat orders were placed at a time when prices were falling and that too without protecting the Government interest.

The Committee have examined the various acts of omission and commission in procurement of these SPV panels for rural telephone connections by the DoT which are dealt with in the succeeding sections.

### Procurement during 1991-93

#### Unusually High Number of Educational Orders

3. The nomenclature of educational order denotes what is known as trial order or experimental order. The educational orders are generally placed for small quantities for testing the quality of the product and the capability and the credentials of the manufacturer. In disregard of this practice, DoT placed educational orders for a large number of 9000 SPV panels constituting 30 percent of total orders for 30,000 units on four firms during January-March, 1992 which did not possess type approval. Three of these four firms on which educational orders for 7000 units placed were in the private sector.



4. On being enquired by the Committee as to what were the reasons for placing the educational orders for bulk quantity of SPV panels, the DoT in a note stated:

“The tender for Solar Photo Voltaic System was invited for the first time during 1991. Till then the Department had procured some quantities from M/s. CEL and some experimental supplies from M/s BHEL. Since only these two companies were established suppliers at the time of opening of the tender, it was considered prudent to place educational orders of sizable quantity to widen the vendor base.”

5. In this connection, the Chairman, Telecom Commission, added during evidence:

“It was out of desire to expand vendor base that parties other than the established suppliers were entertained. However, in the anxiety to expand the vendor base what happened was that the educational orders exceeded the limit. In the first tender, at that time, no conscious policy was there.”

6. Further, the Chairman, Telecom Commission, conceded that 30 per cent of the quantity ordered was in the nature of educational orders and that it was not justified on the grounds of propriety. When asked whether any guidelines were evolved prior to 1994, he stated that the concept of giving educational orders was there but it was in a nebulous state.

7. At the instance of the Committee, DoT furnished the details of the commercial and educational orders for which supply orders were placed during 1991-93, as under:

Firm	No. of Units	Value Rs.	Date of approval	Date of P.O.	Delivery Schedule	Actual Date of Delivery
CEL	10000(Com.)	24400000	11.11.91	18.11.91	30.09.92	30.09.92
BHEL	6000(Com.)	146400000	11.11.91	07.12.91	31.07.92	30.03.93
REIL	2000(Ed.)	45872000	11.11.91	14.01.92	13.08.92	22.02.93
TATA BP	2000(Ed.)	45872000	11.11.91	03.03.92	02.09.92	19.04.93
RES	3000(Ed.)	68808000	11.11.91	03.03.92	02.09.92	04.06.93
UDAYASEMI CONDUCTOR	2000(Ed.)	45872000	11.11.91	27.03.92	26.10.92	28.02.94
CEL	5000(Com.)	114680000	11.11.91	18.01.93	31.03.93	08.04.93

8. The DoT also furnished the following information about the number of units for which tenders were placed during 1990-97 on different occasions and the number of units for which orders were actually placed:

Tender No.	Tendered Quantity	Ordered Quantity	Remarks
2622690MMC opened on 22.3.91	20,000	30,000	This included orders of 9000 systems as Educational Orders for developing vendor base.
8031593MMC opened on 28.5.93	60,000	61,200	This included 1200 systems of Educational Orders to develop wider vendor base.
11-1294MMT(RN) opened on 20.12.94	-50,000	32,870+	On lease basis
14-4995MMT(RN) opened on 3.4.96	1,03,900	770 42,685	On cash basis Orders for balance quantity are yet to be placed.

Note: DoT has since issued the guidelines for the placement of Educational Orders on 19.12.1994 (Copy enclosed at Annexure-I).

#### Incorrect fixation of unit rate of SPV Panels

9. Audit has pointed out that the DoT did not take the correct value of customs duty into account while fixing the price of the SPV panels. While working out the reasonableness of the rates demanded by the firms in September 1991, the DoT reckoned the rate of customs duty at 45 percent *ad-valorem*, instead of the then prevailing rate of 30 percent on silicon wafers. This contributed to fixation of higher rate by Rs. 904 for each panel in commercial orders (21,000 units) and Rs. 850 each in case of educational orders (9,000 units). The impact of this error aggregated to an excess payment of Rs. 2.66 crore.

10. On being enquired by the Committee about the method adopted for price fixation of SPV panels, the DoT in a note stated:

“The DoT procures equipment and materials by open tendering without necessarily going into price structure of each and every component. In a system of competitive bidding prices are fixed on the basis of lowest quote of eligible bidder. It is presumed that in this process, every bidder would have taken into account the import content, customs duty implications and other relevant factors so as to be able to quote a competitive price.

The prices of SPV systems were based on the offer of M/s. CEL who were the lowest established qualified bidder. The prices finalised were Rs. 20,000/-. The same were offered to both the established suppliers *i.e.* M/s. CEL and M/s. BHEL but were rejected on account of devaluation of the Rupee, restriction on import, escalation in raw material costs etc. M/s. CEL demanded a price of Rs. 26,120/- with 35% advance and M/s. BHEL demanded a price of Rs. 25,200/- with

50% advance. The negotiations were held by a Committee consisting of Sr. DDG(F), DDG(TX), DDG(MM) and Director (MMC). The Department offered a price of Rs. 24,200/- with 20 percent advance but the same was not accepted by the companies. Based on the inputs submitted by M/s. CEL, the Department revised the prices of Rs. 24,400/- with 35% advance and accordingly the orders were finally placed with approval of Telecom Commission."

11. When the Committee further wanted to know as to whether the services of the Customs & Central Excise Department were taken at the time of fixation of price of SPV units wherever it was essential, the DoT in a note stated that in the light of the clarifications offered above, it was not felt necessary to requisition the services of Customs and Excise Department. In a system of competitive bidding, variation in customs and excise duty are expected to be taken care of by the bidders themselves. If in specific cases, interpretation of Customs and Excise Rules is required, this was done internally by a cell in the DoT.

#### **Failure to reduce the price consequent on reduction of customs duty**

12. It has been revealed by the Audit that there was reduction of customs duty on import of both SPV modules and wafers by 15 per cent *ad-valorem* from March 1992. However, DoT placed educational supply orders for 7000 systems on three firms in March 1992 and commercial orders for 5000 units in January 1993 on CEL at the same rates fixed in November 1991 *i.e.*, prior to reduction of customs duty resulting in undue benefit of Rs. 1.39 crore to the firms and loss of an equivalent amount to the Government.

13. On being asked by the Committee as to why the Department did not take into account reduction in customs duty while placing orders for 7000 and 5000 units in March 1992 and January 1993, the DoT in a note stated that reopening the price issue after announcement of the budget which was only a few months after the negotiated settlement, would have jeopardised the supply of SPV systems which were vital for the installation of Village Public Telephones (VPT).

14. When enquired about the reasons for not invoking the standard terms and conditions of the contract and taking the benefit of reduction in customs duty in respect of supply made after scheduled date of delivery, the DoT replied that as a general rule, the Department has since started insisting on benefit being passed on to them due to reduction in duties and taxes after the expiry of the original delivery period mentioned in the Purchase Orders. Revision of prices is done in consultation with the Internal Finance Advice and the revised lower prices are offered wherever applicable for the supplies effected during the extended delivery period.

15. To a question of the Committee whether the DoT ever raised the issue of customs duty being reduced with the supplier, the Chairman, Telecom Commission, deposed:

“So far as customs duty were concerned, the fact is that we did not pass it on. We did not ask them to reduce the price though the deliveries were made.”

16. In this connection, he further added:

“What we did to be clear was not in conformity with the terms and conditions of the purchase order.”

17. The Committee further desired to know whether there could be some collusion in that, the Chairman, Telecom Commission, stated in evidence:

“I would put it this way that it was an omission.”

18. Elaborating further, the Chairman, Telecom Commission stated:

“I would say that it was an irregularity and an irregularity could be procedural as well as administrative.”

19. On being specifically enquired by the Committee as to whether any responsibility was fixed for this omission/irregularity of failure to reduce the price consequent on reduction of customs duty, as even pointed out by Finance audit, the Chairman, Telecom Commission replied:

“I would say that the question of reduction was not attended to.”

**Non-deduction of decrease in Customs duty on supplies made after scheduled date of delivery**

20. The Committee's examination has further revealed that the Department also failed to deduct the amount of reduction in Customs duty on supply made against the supply order for 1800Q SPV panels on three PSUs placed before March 1992 in terms of purchase order which clearly provided that benefit of any reduction in statutory duty would accrue to the Department. The Department, however, failed to deduct Rs. 1.57 crore from the bills of the supplier (BHEL and REIL) for supply of 7642 panels made after scheduled date of delivery on account of reduction in customs duty.

21. On being enquired by the Committee as to why the Department did not deduct the amount equivalent to the reduction in the Customs duty on the supplies made after the scheduled delivery period, the DoT in a note stated that since the prices approved were ex-works, they included the element of customs duty paid by the suppliers. They further stated that the SPV systems were not fully imported and the import content varies from vendor to vendor depending upon their manufacturing capability. To take care of such exigencies, the Department fixed the prices on the basis of the lowest quote of the qualified bidder. The DoT also stated that since the prices were negotiated recently, there was no case for reopening the prices on the announcement of the budget as it would have jeopardised the supply of a critical item like SPV.

22. Asked about the reasons for non-implementation of the term and conditions laid down in the purchase order, the Chairman, Telecom Commission deposed in evidence:

“As I have clearly mentioned earlier, this was not enforced. The reason was that because of the protracted negotiations with the vendors, the price could be finalised in November, 1991 and in order to ensure that there was no disruption the matter was not pressed because otherwise again it would have meant negotiations with the suppliers and dislocation of supplies.”

23. In this connection, DoT in a post-evidence note admitted that cognizance of reduction in customs duty was not taken while placing orders for 7,000 and 5,000 units in March 1992 and January 1993 respectively and in respect of supplies made after scheduled date of delivery.

#### **Procurement during 1993-94**

##### **Delay in processing and finalising the Tender**

24. According to Audit, the DoT also invited tenders for procurement of 60,000 systems in April 1993. However, it placed commercial and educational orders for 30,000 and 1200 systems respectively during October-November 1993 at Rs. 22,489.90 per system. Further, the DoT reduced the total SPV units to be procured from 60,000 to 31,200 on the plea of reduced requirement.

25. When the Committee enquired as to how they assessed the requirement of 60,000 systems initially and what were the reasons for reduction in requirement by 50 per cent within six months, the DoT in a note stated:

“It was initially planned to provide 54,750 Village Public Telephones (VPTs) during 1993-94 and as such the requirement of 60,000 SPV systems was forecast for procurement. However, the targets for VPTs were finally fixed at 46,820 and only 30,000 VPTs out of this target were expected to be provided on Multi Access Radio Relay Systems involving use of SPVs.”

26. The Committee further desired to know as to why an order for 60,000 units was placed and how did the requirement go down immediately, the Member (Production), Telecom Commission, stated in evidence:

“Village Public Telephones was a high priority item and so targets were fixed at a high level initially. But later on they were reduced because it was realised that the target of this magnitude was not capable of being realised. That is how, the figure came down. I would therefore, agree with you that the target that was originally estimated was not a realistic one.”

27. In this connection, the DoT in their post-evidence information stated that tender No. 80-31593-MMC was floated for procurement of 60,000 SPV systems and it was opened on 28.5.1993. They further stated that

against this tender, orders for 31,200 units only were placed during October-December 1993 and additional orders for 30,000 units were placed during May-June 1994. It was also informed that splitting of quantity was not envisaged in the tender.

#### **Adoption of rate of non-type approved firm and incorrect computation of Acceptable Rates**

28. It has been revealed by the Audit that the International prices of the solar cells used in the SPV panels had come down since finalisation of rates for the previous purchases in November 1991. Instead of conducting a proper rate analysis to arrive at the reasonable price for counter-offer/negotiation with the firms, DoT approved the rate of Rs. 22489.80 quoted by Advanced Radio Masts (ARM), Hyderabad as the lowest on the logic that their rate was closest to the rate obtained during the previous tender finalised in November 1991 reduced by the fall in the International prices of solar cells. According to the Audit, the element of the customs duty of Rs. 977 on account of fall in the International prices of solar cells was ignored. This act of omission in procurement of 31,200 SPV panels resulted in excess expenditure of Rs. 3.05 crore.

29. The Committee was, in this particular case, informed by the DoT that the Tender Evaluation Committee (TEC) had taken note of the fall in the International prices of solar cell and a conclusion was drawn that the price of Rs. 22,490 was reasonable taking into account the earlier tender prices of Rs. 24,400. The Department, however, did not clarify whether the TEC had actually taken into account the resultant reduction in customs duty component consequent upon the reduction of International price by US dollar one per cell.

30. In this connection, the Chairman, Telecom Commission stated in evidence:—

“I am not aware whether it included the element of customs duty or not.”

31. The DoT after evidence admitted in a note that for this tender, while fixing the rate of SPV panels, the element of reduction of customs duty on the reduced International price of the solar cells was not taken into account.

#### **Undue benefit to some Private Firms**

32. It has been revealed by the Audit paragraph that M/s. ARM did not qualify for commercial orders since it did not possess type approval on the date of opening of the bid *i.e.* April 1993. However, DoT placed commercial orders for 500 units on this firm in November 1993 on the plea that the type approval was granted to this firm in August 1993. The fate of grant of type approval to other six technically acceptable firms was not known.

33. Raising their doubt about the manner of fixing the price for orders placed during 1993-94, the Committee wanted to know whether it was done to promote the case of some firms. The DoT in their reply stated that the tender No. 80-31593-MMC was opened on 28.5.1993 and a total of 23 bids were received out of which only 13 were found technically responsive. Out of these thirteen firms, six firms possessed type approval while seven were without type approval. As per the special conditions in the tender, commercial orders were to be placed on the companies who had type approval on the date of opening of the tender and educational orders on the companies who did not have type approval but were responsive. According to the DoT, this clearly implied that the orders were to be placed on all the companies who were responsive whether with type approval or without type approval. The DoT also stated that the department had also decided to place orders not only on M/s. ARM but on all such firms who were earlier technically competent and were in possession of the type approval at the time of placement of orders for the balance quantity of 30,000 SPV systems to meet the requirement of 1994-95.

34. At the instance of the Committee, the DoT have furnished the following information about the names of the firms, number of units for which supply orders were placed on each of them, date of placing of supply orders, price, total value of the supply orders, scheduled delivery period and actual delivery for all supply orders placed during 1993—95 (including repeat orders):—

"AGAINST TENDER NO. 80-315/93-MMC OPENED ON 28.5.93

Name of the Firm	Purchase order	Date	Qty.	Unit Rate Rs.	Total Value Rs.	Scheduled Delivery	Actual Date of Delivery
CEL	MMCT/8286/93-94	29/10/93	7000	22489	157423000	28/02/94	28/02/94
REIL	MMCT/8289/93-94	29/10/93	4500	22489	101200500	28/02/94	28/02/94
BHEL	MMCT/8290/93-94	29/10/93	4500	22489	101200500	28/02/94	09/03/94
RES	MMCT/8291/93-94	29/10/93	7500	22489	168667500	28/02/94	19/03/94
TATA BP	MMCT/8293/93-94	03/11/93	4500	22489	101200500	28/02/94	21/02/94
ARM	MMCT/8303/93-94	17/11/93	500	22489	11244500	28/02/94	24/02/94
KELTRON	MMCT/8304/93-94	12/11/93	200	22489	4497800	11/05/94	21/03/94
U.S.	MMCT/8305/93-94	17/11/93	1500	22489	33733500	28/02/94	22/03/94
SEIMENS	MMCT/8306/93-94	17/11/93	200	22489	4497800	16/05/94	30/03/95
ITI NAINI	MMCT/8307/93-94	17/11/93	200	22489	4497800	28/02/94	28/02/94
PENTAFOUR	MMCT/8308/93-94	24/11/93	200	22489	4497800	23/05/94	27/02/95
BEL	MMCT/8316/93-94	16/12/93	200	22489	4497800	15/06/94	12/10/94
TELEMATICS	MMCT/8317/93-94	28/12/93	200	22489	4497800	27/06/94	01/10/94
ARM	MMCT/8327/94-95	23/05/94	9000	22489	202401000	29/11/94	10/06/95
RES	MMCT/8335/94-95	30/05/94	5000	22489	112445000	22/11/94	30/09/94
RELL	DY. MT-9313	22/06/94	3200	22489	71964800	31/08/94	31/08/94
KELTRON	DY. MT-9314	22/06/94	3200	22489	71964800	31/08/94	11/05/94*
BHEL	DY. MT-9315	22/06/94	3200	22489	71964800	31/08/94	03/10/94
CEL	DY. MT-9317	24/06/94	3200	22489	71964800	31/08/94	30/09/94
TATA BP	DY. MT-9318	28/06/94	3200	22489	71964800	31/08/94	18/08/94

\*Short closed vide No. 80-361/93/MMC dated 31.5.95



35. As mentioned earlier the M/s ARM, did not possess type approval on the date of opening of the bid in April 1993. The Committee wanted to know under whose order commercial orders for 500 units were given to that firm in November 1993 after type approval in August 1993 and when did that firm and the other six firms apply for type approval and when was type approval to other six technically acceptable firms given, the DoT in a note stated:

“The order referred to in this question was placed on M/s. ARM not as a commercial order, but as an educational order. As per the special conditions of the tender, educational orders could be considered on eligible bidders even though they did not possess type approval on the date of opening of the tender. However, it was also provided that such firms would take type approval before they started supplying the systems to the DoT in case the DoT placed educational orders on them. M/s. ARM along with six other companies were found eligible but since they were not having type approval certificates at the relevant time, they were given educational orders. Since M/s. ARM had quoted the lowest price which became the basis of the entire procurement of 30,000 SPV systems during the year and the firm had by this time obtained the type approval, it was considered appropriate to place educational orders with little higher quantity i.e. 500 Nos. as compared to 200 Nos. on other bidders having no type approval. The details of type approval of these companies are given below:—

Sf. No.	Name of the Firm	Date of application for Type Approval/ Registration	Date on which Type Approval was Granted
1.	M/s ARM, Hyderabad	9.7.93	30.8.93
2.	M/s KELTRON	Not readily available	16.3.94
3.	M/s BEL, Machlipatnam	11.11.94	19.12.94
4.	M/s TELEMATICS, New Delhi	Not readily available	NIL
5.	M/s SIEMENS Ltd.	2.5.94	28.7.94
6.	M/s PENTAFOUR PRODUCTS	5.4.94	6.6.94
7.	M/s ITI Ltd. Allahabad	29.6.94	17.10.94

36. The Chairman, Telecom Commission, deposed during evidence:

“About the second tender, now that you have referred to the ARM, I would like to straightway say that it was not correct to have repeated the remaining 30,000 orders against the first instalment. That should not have been done because it is against the principle of tender management.”

37. In another note admitting their omission in the matter subsequent to evidence, the DoT stated:

“M/s. ARM did not possess type approval on the date of opening of the tender opened on 28.5.1993. They were considered for

Educational orders only in November 1993. Yet while placing repeat orders for a total of 30,000 units in May/June 1994, M/s. ARM were considered for placement of commercial orders which was in contravention of tender conditions.”

#### **Preference to PSUs denied in favour of RES**

38. It has been brought out by Audit that as per the policy of DoT, with a view to encouraging the firms for competitive bidding, 30 to 50 per cent of the supply order is placed on the firm whose lowest rates are accepted. While on the one hand, the lowest rate quoted by ARM was fixed for supply by all firms, another firm, RES, whose rates were the lowest among the type approved firms, was given benefit of substantial order for 7500 units constituting 25 per cent of the total orders, with the approval of the then Minister of State for Communications MOS (C) on the conceited assumption that this firm deserved more orders since it had quoted the lowest rate among the type approved firms. Others, which included proven PSU units viz. BHEL and CEL were given supply order of only 4500 and 7000 units respectively. Preference to PSUs in placing supply order was denied in favour of RES on the plea that these were not PSUs of DoT. This arrangement of accepting the rate of ARM, a non-type approved firm and then placing orders for a big chunk on RES on the plea that their's was the lowest rate among type approved firms gave benefit of higher volume of supply order to both the firms.

39. On being pointed out by the Committee that if the policy of the department was to give purchase preference to PSUs when their rates were comparable then why was preference denied to BHEL and CEL. The DoT in a note stated that the purchases by them were of large quantities and no single firm could have perhaps met the entire requirement. It was in the interest of DoT to have multiple vendor base and to distribute the orders to a number of them to have timely supplies. Moreover, since the liberalization policy in 1991, the DoT has been purchasing equipment against open tenders instead of from M/s. ITI, HTL and other PSUs alone. There was no purchase preference to the PSUs except that the DoT was reserving some quantities to its PSUs i.e. M/s ITI and M/s HTL. Orders against these reserved quantities were placed as per tender conditions.

40. At the instance of the Committee, the DoT furnished the information regarding the capacities of M/s BHEL and M/s CEL as under:—

M/s CEL	2 Megawatt
1990-91	3 Megawatt
1991-92 & Onwards	
M/s BHEL	250 Kilowatt
1990 & 1991	1000 Kilowatt
1992 to 1997	

#### **Repeat Orders**

#### **Undue favour in placing Repeat Purchase orders on ARM and RES**

41. It has been revealed by the Audit that DoT favoured ARM with the

orders of MOS (C) (Annexure-II) by placing commercial orders for 9000 units in May 1994, notwithstanding the standard clause in the original supply order placed on this firm in November 1993 that repeat order not exceeding 100 per cent shall be placed on the firm. DoT placed repeat supply orders for a quantity 18 times higher than the original supply order on this firm. While replying to a question on this aspect, the DoT stated that orders were placed on the earlier established supplies alongwith two other firms i.e. M/s ARM and M/s Keltron who obtained type approval by this time. M/s ARM quoted the lowest price in the tender, which became the basis of procurement of entire quantity of 60,000 SPVs and that it was decided to place orders for 9000 units on M/s ARM only after it had executed the educational order and had become established supplier.

42. The Committee were also informed that the DoT placed repeat supply order on RES for 5000 units in May 1994 despite the fact that the firm had failed to complete the supply as per delivery schedule against an earlier supply order of October 1993 for 7500 units.

43. During evidence, the Committee were informed that originally an order of 6000 units was proposed for ARM under the Repeat Order. But ultimately when the final decision was taken, the supply order of ARM was increased from 6000 to 9000 units.

44. When the Committee specifically desired to know whether the Minister had advised that so much of order should be placed and he had fixed the quantum, the Chairman, Telecom Commission, deposed:

“Yes, we have given a copy of the orders.” (Annexure-II)

45. On being asked further as to the how many cases the Minister issued orders for placing orders on a particular firm, the Chairman, Telecom Commission stated:

“There were other examples also.”

He also added:

“I have come across one and that is the subject matter of a C.B.I. inquiry.”

#### **RES and ARM allowed more time for supply**

46. It is seen from the Audit Paragraph that while other firms on whom the supply orders were placed in May 1994 were given only two months' time for supply, M/s RES and ARM were given delivery schedule of six months from the date of supply orders. ARM failed to supply 7200 units even within the elongated delivery period. Commenting on this, the DoT in a written reply have stated that the delivery period was fixed keeping in view the quantum or orders on the firms. Since M/s ARM and RES were given order for largers quantities, these firms were given more time for supply. According to the DoT, they even now give larger delivery schedules to the firms getting maximum order. However, the scrutiny of the reply of the DoT shows that while a delivery period of our months was given for supply of 7500 units by RES in October 1993, a delivery period of six months was granted to this firm in respect of the repeat order of 5000 units placed in May 1994. Similarly, in the case of ARM six months

were given for supply of 9000 units as against just four months given to RES for supply of 7500 units.

47. On being pointed out by the Committee whether it did not indicate that the DoT had acted in an arbitrary manner in the matter of fixation of delivery schedule for supply of SPV panels by different firms without giving due regard to the quantity to be supplied, the DoT in a post-evidence note stated:

“The delivery period for M/s ARM against the purchase order placed on 23.5.1994 for 9,000 units was 22.11.1994 which was extended upto 31.12.1994. However, as per the records, about 50 percent of the supplies were actually delivered after the extended delivery period, the last date of delivery being 10.6.1999.”

#### **Undue favour to M/s ARM on supplies made after the Delivery Schedule**

48. The Audit paragraph has brought out that ARM quoted the lowest rate of Rs. 16,885 per system in response to an NIT issued by DoT in September 1994. In spite of non-fulfilment of the supply of the earlier order by ARM within the delivery schedule, wherein DoT had the option to foreclose the supply order, DoT chose to procure the remaining units against the earlier supply order of May 1994 from the firm at the earlier higher price of Rs. 22,489.80 rather than foreclosing the supply order on the ground of non-adherence to delivery schedule. This resulted in an undue favour of Rs. 4.38 crore to ARM on supply of 7200 units supplied after the scheduled date of delivery. The option of DoT to charge liquidated damages of Rs. 0.34 crore for delay in supply rather than foreclosing the supply order which could have saved Rs. 4.04 crore to the Department was not prudent. In this connection, the DoT in their reply to a question have stated that the purchase order on M/s ARM was issued on 23.5.1994 with delivery period upto 22.11.1994. The extension in delivery period was granted upto 31.12.1994 with levy of Liquidated Damage charges on 14.11.1994 for 40 days prior to opening of the new tender on 20.12.1994. The extension was granted to the firm at the rates prevailing at that time. It was learnt from Audit that the DoT themselves had in October, 1994 placed order for 19,630 units on ITI at a provisional rate of Rs. 17,991.84 which was subsequently reduced to Rs. 16,885 on the basis of the rate fixed for 1994-95.

49. While tendering evidence before the Committee, the Chairman, Telecom Commission, stated that the ARM was allowed to make supplies even after the date of expiry of the extended period and “that has got to be investigated, there was no going back on that”.

50. When posed whether the favour shown to M/s ARM needed CBI enquiry, the representative of DoT replied:

“Looking at the various irregularities that have been committed in connection with the dealings in respect of this Company, I would like to say that the repeat order was not justified. Procedurally, it was not correct at all. .... It would definitely need an enquiry, there is no doubt about it.”

51. In a note furnished to the Committee after evidence, the DoT further stated that the matter was being investigated by the Department.

#### **Excess expenditure on Repeat orders**

52. It has been revealed by the Audit that the DoT did not include the standard term of repeat supply orders in vogue in the department that any reduction in the rate received in response to the tender for that year would be applicable to the repeat supply orders also. Interestingly, DoT included this condition in supply orders for SPV panels placed on ITI Bangalore, in October 1994, in which subsequent reduced rates fixed by the department were made applicable with a financial gain of Rs. 2.17 crore. This act of omission/commission resulted in an excess expenditure of Rs. 10.98 crore on the repeat orders for 19,600 SPV panels on six firms.

53. On being enquired by the Committee as to why the department did not include standard terms of repeat supply order (May-June 1994) in vogue in DoT that any reduction in the rate received in response to the tender for that year would be applicable to this supply order also, the DoT in a note replied that the policy of giving new tender rate in the event of its being lower is invoked only in those cases where the delivery schedules of the earlier purchase orders are extended.

#### **Manufacturers or suppliers**

54. It has also been learnt from the Audit that since CEL and BHEL have a very large capacity for manufacture of SPV panels, it was not clear whether other firms had established the facility or were supplying them after procuring from them or importing the panels. Asked during evidence as to what was the capacity of BHEL and CEL, the representative of DoT replied that they could not rely only on one or two vendors because of their desire to expand vendor base.

#### **Recommendations/Observations**

55. The Committee note with profound concern that the Department of Telecommunications (DoT) extended undue benefit of Rs. 24.03 crore to the suppliers in purchase of 88,000 Solar Photo Voltaic (SPV) panels at a cost of Rs. 210.41 crore, which were used in rural telecom network during 1991-95. It placed commercial orders on ineligible firms after entertaining post bid interventions from them. DoT did not enforce the provision of the purchase order to safeguard the interest of the Government which led to extending favours to the firms. It did not short close the tender after expiry of the delivery schedule, even when it was aware of steep reduction in prices of SPV panels. Besides, DoT adopted discriminatory treatment towards some firms, both in placement of supply orders as well as in prescribing the delivery period and favoured the private firms at the cost of proven Public Sector Undertakings (PSUs). Repeat orders were placed at a time when prices were falling and that too without protecting the Government interest.

56. The educational orders are generally placed for small quantities for testing the quality of the product and the capability and credibility of the

manufacturer. However, the Committee observe that, in flagrant violation of this practice, DoT placed educational orders for a large number of panels constituting 30 per cent of the total orders for 30,000 units on four firms during January-March, 1992 which did not possess type approval. Explaining the reasons in this regard the Chairman, Telecom Commission admitted during evidence that in the anxiety to expand the vendor base the educational orders exceeded the limit and further, in the first tender, at that time, there was also no conscious policy. However, the Committee feel strongly that the purpose of widening the base would have been served equally well by placing educational orders for nominal quantity *i.e.* 200 Nos. a practice followed by DoT in the subsequent tender.

57. The Committee's examination has further revealed that the DoT did not take the correct value of customs duty into account while fixing the price of the SPV panels. While working out the reasonableness of the rates demanded by the firms in September 1991, DoT reckoned the rate of customs duty at 45 per cent *ad-valorem*, instead of 30 per cent on silicon wafers. This contributed to fixation of higher rate for each panel in commercial as well as educational orders. The impact of this error aggregated to an excess payment of Rs. 2.66 crore. The Committee found that there was no acceptable explanation forthcoming from the DoT regarding the method adopted for price fixation of SPV panels. DoT have stated that they procure equipment and material by open tendering without necessarily going into price structure of each and every component. DoT presumed that in a system of competitive bidding prices were fixed on the basis of lowest quote of eligible bidder and that in which every bidder would take into account the import content, customs duty implications and relevant factors. The Committee note that the way the price fixation mechanism was left entirely by DoT at the whims and fancies of the bidders, speaks volumes for the casual and irresponsible role of the Tender Evaluation Committee (TEC) of the Department which led to pecuniary loss of Rs. 2.66 crore to the DoT. The Committee would like the DoT to evolve suitable parameters in keeping with sound business principles and prudent commercial practices so that the TEC takes into account all relevant factors and circumstances in the best interest of the DoT before making such crucial recommendations.

58. The Committee are amazed that DoT was not even aware that the rates of central excise and customs duty had undergone changes in the annual budget. There was reduction in customs duty on import of both SPV modules and wafers by 15 per cent *ad-valorem* from March 1992. However, DoT placed educational supply orders for 7000 systems on three firms in March, 1992 and commercial orders for 5000 units in January 1993 on CEL at the same rates fixed in November 1991 *i.e.*, prior to reduction in customs duty resulting in undue benefit of Rs. 1.39 crore to the firms and loss of equivalent amount to the Government. Further, the Committee find that the

Department also failed to deduct the amount of Rs. 1.57 crores as reduction in customs duty on supply made against the supply order for 18000 SPV panels on three PSUs placed before March 1992 in terms of purchase order which clearly provided that benefit of any reduction in statutory duty would accrue to the Department. The Committee are shocked to find that the DoT, expected to run on sound business principles being a commercial organisation, not only placed supply orders at the earlier rate after reduction of the customs duty but also failed to deduct the amount equivalent to the reduction in the customs duty on the supplies made after the scheduled delivery period. The Committee are of the considered view that this is a fit case where the DoT must fix individual responsibility whose negligence or complicity contributed to a loss of Rs. 2.96 crore to the Government. The Committee desire that fully satisfactory action taken report in this regard be submitted to them at an early date.

59. The Committee further note with grave concern that the DoT did not invoke the standard terms and conditions of the contract by not taking into account the reduction in customs duty while placing orders for SPV units. The Committee feel that after the customs duty had been slashed, the DoT should have brought the matter to the notice of the concerned firms while negotiating price fixation of the SPC units. DoT admitted in a note that the cognizance of reduction in customs duty was not taken while placing order for SPV units in March, 1992 and January 1993 respectively and in respect of supplies made after scheduled date of delivery. When asked during evidence whether the whole deal smacked of malafide, the Chairman, Telecom Commission, admitted that "it was an irregularity and an irregularity could be procedural as well as administrative". He further agreed that "the question of reduction in customs duty was not attended to". The Committee, therefore, conclude that the failure to take into account the element of reduction in customs duty while processing the price of SPV units resulted in huge avoidable excess payment to the firms to the tune of Rs. 5.62 crore. The Committee therefore suggest that a high level inquiry must be conducted expeditiously to pinpoint the responsibility for such a costly procedural and administrative irregularity.

60. The Committee further observe that the Department invited tenders for procurement of 60,000 SPV systems in April 1993. However, it placed commercial and educational orders for 30,000 and 1200 systems respectively reducing the total SPV units to be procured from 60,000 to 31,200 during October-November 1993 at Rs. 22,489.80 per system. The Witness maintained during evidence that "the VPT was a high priority item and so targets were fixed at a high level initially. But later on they were reduced because it was realised that the target of this magnitude was not capable of being realised. I would, therefore, agree with you that the target that was originally estimated was not a realistic one". Far from pleased with the argument of the Ministry, the Committee note that the Department failed to finalise and place orders for about six months after receipt of tenders in

April 1993. The Committee find that extremely unrealistic target was fixed by DoT for procurement of SPV units which only raises questions on the ability of the Department to make a realistic assessment of its own requirements. The Committee expresses its unhappiness over this and hope the Department will hereafter exercise due care while making assessment of its requirements.

61. The audit has also revealed that the international prices of the solar cells used in the SPV panels had come down since finalisation of rates for the previous purchases in November 1991. However, the Committee are shocked to note that instead of conducting a proper rate analysis to arrive at the reasonable price for counter offer/negotiation with the firms, DoT approved the rate of Rs. 22,489.80 quoted by M/s Advance Radio Masts (ARM), assuming the unit price of SPV modules fixed in 1991 as the reference point for working out the rate reasonableness for procurement during 1993-94. Although the DoT took note of the fall in the international price of the solar cells while working out the reasonable price yet they altogether omitted the customs duty element on account of reduction in the international price of the solar cells. The Committee find that this significant omission inflated the unit price determined in October 1993 by Rs. 977 and the impact on exchequer was an excess payment of Rs. 3.05 crore on purchase of 31,200 SPV panels during 1993-94. According to a calculation made by Audit, if the play in the rate of 1991, which was taken as reference point for fixing the rate of 1993-94 is also taken into account, the excess payment to the suppliers would work out to Rs. 5.87 crore. The Committee, therefore, recommend that the Department investigate whether such a significant omission amounted to mere grave dereliction of duty or breach of trust on the part of concerned official(s). The Committee also recommend that only the officers of proven integrity and capable of protecting Government interest should be posted to such sensitive posts at decision making levels.

62. Another disquieting feature which has been causing concern to the Committee is that the DoT adopted the rate quoted by ARM, not being a type-approved firm on the date of tendering, as the lowest and also favoured the latter with substantial portion of supply order. The Committee are perturbed to note that it was not clear whether any systems and control existed in the Department to ensure transparency in grant of type-approval so crucial for placing supply orders. While ARM was given type approval within record 52 days and favoured with huge supply order, other firms like Keltron, BEL, Siemens, Pentafour Products and ITI Allahabad were granted type approval between March 1994 and October 1994. Further, the Committee are surprised to find that in their reply to a question on the dates of receipt of applications for type approval from different firms, DoT has indicated "date of application for type approval not readily available in respect of M/s Keltron and M/s Telematics, New Delhi." The Committee feel that it was an attempt to foreclose further scrutiny into the favourable



treatment meted out to ARM in relation to grant of type approval. The Committee, therefore, desire that the matter of grant of type approval be enquired into and the Committee be apprised of the outcome.

63. The Committee observe that two firms namely M/s RES, Secunderabad and M/s ARM, Hyderabad were favoured by the Department in many ways. Instead of a proper rate analysis with reference to the tender of April 1993, DoT chose to justify inclusion of ARM among the firms for placing the supply orders for a very large quantity besides placing bulk of the supply order on RES during 1993 and 1994. Not being a type approved firm on the date of tendering, ARM was not eligible to be considered at all for placing commercial supply orders. The Committee find, however, that DoT brought in this firm through back door by stating that the rate offered by ARM was close to the reasonable rate worked out by them after reducing the amount of fall in the international price of solar panel from the previous purchase price. The Committee note that the lowest rate quoted by ARM, though not a type approved firm, was fixed for supply by all firms, whereas RES, whose rates were the lowest among the type approved firms, was given benefit of substantial order for 7500 units constituting 25 per cent of the total orders, with the approval of the Minister of State for Communications MOS(C) on the specious argument that this firm deserved more orders since it had quoted the lowest rate among the type approved firms. In order to favour ARM, orders for 31,200 units only were placed during October-December, 1993 against the tender of 60,000 units and in the intervening period ARM was given type approval in August 1993 against their application of July 1993 and later given order for supply of 9000 units. The Committee draw the unmistakable inference that undue favour was shown to M/s ARM and M/s RES who, between them, bagged supply orders for 14,000 units out of the total of 26,800 units for which DoT placed supply orders in May-June 1994, while others like BHEL, CEL, REIL etc. go orders for only 3200 units each.

64. The Committee further note that it was the policy of the DoT to give purchase preference to Public Sector Undertakings (PSUs) when their rates were comparable with the rates of private companies. On this, DoT maintained in a note that the purchases by them were of large quantities and no single firm could have perhaps met the entire requirement. The Committee are unable to share the perception of the Department and feel that the combined capacities of M/s BHEL and M/s CEL were good enough for the entire supply of SPV units after 1991-92 as per the information furnished to the Committee by the Department. The Committee desire that, other thing being equal, preference must be given to PSUs so that their often idle capacities are utilised to the optimum.

65. Another grey area, where the Committee feel undue favour was given to these two firms was in the placing of repeat purchase orders for SPV units on them. The Committee find that DoT favoured ARM with the orders of the MOS(C) dated 21 April, 1994 (Annexure-II) by placing

commercial orders for 9000 units in May 1994, notwithstanding the standard clause in the original supply order on this firm in November 1993 that repeat order not exceeding 100 percent shall be placed on the firm. However, the Committee are surprised to find that DoT placed repeat supply orders of a quantity 18 times the original supply order on this firm. DoT have stated that as ARM quoted the lowest price in the tender, which became the basis of procurement of entire quantity of 60,000 SPV panels, it was decided to place orders for 9000 units on ARM only after it had executed the educational order and had become established supplier. Further, the Committee note that the DoT placed repeat supply order on M/s RES for 5000 units in May 1994 despite the fact that the firm had failed to complete the supply as per delivery schedule against an earlier supply order of October 1993 for 7500 units. The Committee, were also informed during evidence that originally an order of 6000 units was proposed for ARM under the repeat order. But they find to their consternation that the MOS(C) had directed that supply order to M/s ARM should be increased from 6000 to 9000. The Committee were also informed by the Chairman, Telecom Commission, during evidence that there were other examples also where the MOS(C) had advised for fixing particular quantum of SPV panels while placing orders on various firms, and one of these cases was the subject matter of C.B.I. inquiry.

66. Another related aspect which engaged the attention of the Committee was that while other firms on whom the supply orders were placed in May 1994 were given only two months' time for supply, M/s RES and ARM were given delivery schedule of six months from the date of supply orders. However, the Committee find that ARM failed to supply 7200 units even within the elongated delivery period. According to the DoT, the delivery period was fixed keeping in view the quantum of orders on the firms and since ARM and RES were given orders for larger quantities, these firms were given more time for supply. The Committee note that the reply of the Department is far from acceptable as a delivery period of four months was given for supply of 7500 units by RES in October 1993, while a delivery period of six months was granted to this firm in respect of the repeat order of 5000 units placed in May 1994. Similarly, in the case of ARM six months were given for supply of 9000 units as against just four months given to RES and CEL for supply of 7500 and 7000 units respectively. From a close and critical scrutiny of written replies furnished by DoT to the Committee in response to their queries and the examination of the witnesses, the Committee observe that the two firms—ARM & RES—were shown undue favours apparently for extraneous considerations, without any resistance or even whimper of protest from DoT. The Committee are appalled to note this attitude of complete surrender/complicity/connivance on the part of some higher officials of DoT which helped foist such a blatant irregularity. The Committee cannot but deplore that those who had a duty to point out the implications of the order of the Minister became mute bystanders rather

instruments in the execution of irregular orders. Taking note of the arbitrary and adhoc manner in which the delivery schedule was fixed for supply of SPV panels by different firms without giving due regard to the quantity to be supplied, the Committee consider that it would be proper and essential to include this aspect as well within the ambit of independent ongoing investigation.

67. Yet, another matter which has caused considerable concern to the Committee is undue favour shown to M/s ARM on supplies made after the delivery schedule. The Committee note that ARM quoted the lowest rate of Rs. 16,885 per system in response to a Notice Inviting Tender (NIT) issued by DoT in September 1994. They find that despite the failure of ARM to effect supplies within delivery schedule, and the option available with the DoT to foreclose the supply order as per the terms of the contract, the latter chose to procure the remaining units against the earlier supply order of May 1994 from the firm at the earlier higher price of Rs. 22489.80 rather than foreclosing the supply order on the ground of non-adherence to delivery schedule. This resulted in an undue favour of Rs. 4.38 crore to ARM on supply of 7200 units supplied after the scheduled date of delivery. The Committee strongly deplore the action of DoT to charge liquidated damages of Rs. 0.34 crore for delay in supply rather than foreclosing the supply order which could have saved Rs. 4.04 crore to the Department. According to DoT the purchase order on ARM was issued on 23.5.1994 with delivery upto 22.11.1994. The extension in delivery period was granted upto 31.12.1994 with levy of liquidated damage charges on 14.11.1994 for 40 days prior to opening of the new tender on 20.12.1994. The Committee find that the extension was granted to the firm at the rates prevailing at that time. Against this background, the Committee observe that DoT themselves had in October 1994 placed order for 19630 units on ITI at a provisional rate of Rs. 17991.84 which was subsequently reduced to Rs. 16885 on the basis of the rate fixed for 1994-95. In this context, the Committee are deeply concerned to note that ARM was allowed to continue the supply at the old higher rate even when they had themselves quoted much lower rate and DoT had placed order on a lower rate. The Committee are further shocked to find that ARM was allowed to continue supply at the higher rate even after the date of expiry of the extended period and much beyond the date of the tender for 1994-95. The Committee, therefore, strongly recommend that the matter should be investigated expeditiously and strongest punitive action taken against those who took the decision to charge liquidated damage for delay in supply rather than foreclosing the supply order particularly when DoT themselves had placed order on ITI in October 1994 at drastically reduced prices.

68. The Committee find that DoT did not invoke the standard term of repeat supply orders in vogue in the department that any reduction in the rate received in response to the tender for that year would be applicable to the repeat supply orders also. The failure of DoT to invoke the standard

clause of the contract resulted in an excess expenditure of Rs. 10.98 crore on the repeat orders for 19,600 SPV panels on six firms and ARM and RES were the major beneficiaries among others. According to the Department, the policy of giving new tender rate in the event of its being lower was invoked only in those cases where the delivery schedules of the earlier purchase orders were extended. However, the contention of DoT stands completely demolished in view of the fact that the Department included this condition in supply orders for SPV panels placed on ITI Bangalore, in October 1994, in which subsequent reduced rates fixed by them were made applicable with a financial gain of Rs. 2.17 crore. Thus, the Committee note that it was a common practice in DoT that in cases where the finalisation of the rate for the next year's purchase was delayed, the supply orders were placed at provisional price, which were subject to revision in accordance with the price fixed in the tender for the current year's purchases. While deprecating such an unconscionable lapse which resulted in a loss of Rs. 10.98 crore to the exchequer, the Committee desire that responsibility should be fixed for such a grave lapse and stringent action taken against persons who showed undue favour to private firms and brought avoidable pecuniary loss to the Government.

69. Another aspect which engaged the attention of the Committee is related to the manufacture or supply of SPV panels by different firms. The Committee note that CEL and BHEL have a very large capacity for manufacture of SPV panels. However, they feel that in the absence of any monitoring/inspecting mechanism, it was not clear whether other firms had established the facility or were supplying them after procuring the same or importing the panels. The Committee recommend that a suitable mechanism should be evolved by the Department so as to ascertain whether the supplier firms were purchasers/manufacturers. They would also like to be informed as to which firms were actual producers/manufacturers and which not in the matter under examination.

NEW DELHI;  
13 April, 1999

23 Chaitra, 1921 (Saka)

MANORANJAN BHAKTA,  
Chairman,  
Public Accounts Committee.

No. 8-19/94-MMS  
DEPARTMENT OF TELECOMMUNICATIONS  
TELECOM COMMISSION

Sanchar Bhavan, 20 Ashoka Road,  
New Delhi-110 001

Dated 19th December, 1994

To

Chief General Managers, Telecom Circles.  
CGM Telecom Districts, Calcutta/Madras.  
CGM Projects, New Delhi/Bombay/Calcutta/Madras.  
CGM Telecom Maintenance, New Delhi/Bombay/Calcutta/Madras.  
CGM Task Force, Guwahati/Shimla.  
CGM Telecom Stores, Calcutta.  
CGM Quality Assurance, Bangalore.  
Sr. DDG, Telecom Engineering Centre, New Delhi.

**SUBJECT:** *Issue of guidelines for policy about Commercial & Educational Orders for the procurement of telecom equipment and stores.*

Telecom Commission has reviewed the policy about placement of Commercial and Educational Orders for the procurement of telecom equipment and stores and the final guidelines in this regard are enclosed at Annexure to this letter. These guidelines have been drawn in reference to the following context:

(1) We should encourage the development of more vendors even when there are established vendors available in sufficient number, so that a supplier always have the feeling that other vendors can come in if they can supply better equipment or cheaper equipment, everything else remaining the same.

(2) Ordinarily the bids should be invited only from the established suppliers and therefore the need for promoting the new vendors through the system of type approvals and educational orders on a continuing basis.

(3) There is no need for a vendor seeking educational orders to participate in tenders. He should, in fact, adopt the route of educational order now because it will be available on a continuing basis. Once the educational order has been executed successfully, the vendor becomes eligible for bidding in response to a tender and qualifies as an established vendor.

(4) For the success of the new guidelines, it is necessary that the TEC and the QA deal with all applications for type approval as expeditiously as possible. They should entertain requests from any new vendors for

considering an item of manufacture for type approval. There will be no need for such applicants to have any orders in hand before their item can be considered for type approval. A vendor who have executed an educational order successfully will become eligible for participating in a tender alongwith other established suppliers.

Action as per the guidelines be taken by the concerned competent authorities.

Sd/-

(ARUN KUMAR)  
D.D.G. (MM.II)

Encl. As above.

Copy for information to:

1. PS to MÖS(C)
2. Chairman, Telecom Commission.
3. Member (S)/Member (P)/Member (T).
4. Advisor (P)/Advisor (T)/Advisor (O)/Advisor (HRD).
5. All DDsG in Telecom Commission.
6. Dir.(MMC)/Director(MMD)/ Dir.(MMS)/Director(MMT).

**SUBJECT:** *Educational orders for the procurement of telecom equipment and stores—guidelines for.*

**Nomenclature**

(1) The nomenclature of “educational order” will include what is currently known by the name of trial order or experimental order.

**Type Approval**

(2) An educational order would be given only to a vendor who has obtained type approval of the equipment or item of store concerned from the TEC or the QA as the case may be.

**Quantity of Order**

(3) The educational order for an item in favour of any vendor shall be restricted in a year to a maximum of one per cent of the total requirement for the year or an amount of Rs. 25 lakhs. In case the requirement for the current year is not available, it will be restricted to one per cent of actual purchases made in the previous year.

**Price**

(4) A vendor seeking to obtain an educational order will not be expected to participate in a bid for a tender. The order can be placed upon him subject to various restrictions given above or below at a price which is at least 10% less than the latest tender price for the concerned item. In case, the tender price for the current year is not yet available, the price would be fixed provisionally at 75% of the last year's price which will be suitably adjusted to 90% of the current price when it becomes available.

**Applicability**

(5) The above guidelines will apply to educational orders in respect of such items of telecom equipment and stores as are the subject of central purchase by the headquarters of the DoT or the CGM, Stores at Calcutta.

**Exceptions**

(6) Any exception to the above guidelines will be made only in very exceptional cases under the authority of the Telecom Commission.

**DEPARTMENT OF TELECOMMUNICATIONS  
TELECOM COMMISSION  
(MM-II CELL)**

**SUBJECT: *Regarding policy about Commercial and Educational Orders for procurement of Telecom Equipments and Stores.***

In continuation of this office letter of even number dated 19.12.1994 addressed to all the Heads of Circles with copy to others, certain points for rational operation of the above order are clarified as below:

(i) Since the Telecom Commission has already taken a decision setting a limit to the prices payable and the quantity for these educational orders, financial concurrence in individual cases will not be necessary.

(ii) To safeguard the interest of the department, payment against educational orders for A&P items will be released only after successful A/T and induction of the equipment in the network. This, however, will not apply in respect of such items as—Push Button Telephones, Solar Photovoltaic Power Sources, Masts, Towers etc.

(iii) Educational Orders against the above policy will be placed by the same authority as is entitle to procure commercial supplies.

Sd/-

(ARUN KUMAR)  
D.D.G. (MM-II)

To All Sr. DDsG, DDsG in Telecom Commission.  
Sr. DDG(TEC). CGM(QA), B'lore CGM TS Calcutta.  
C.O. No. 8-19/94 MMS dated 24.01.1995.

Copy to:

1. PS to MOS(C)
2. Chairman (TC)
3. Member(S)/(P)/(T)/(F)
4. Adviser(P)/(O)/(HRD)/(T)
5. Director—MMC/MMD/MMS/MMT



No. 80-361/93-MMC

I have gone through this case. I find that the largest order is being proposed on M/s. CEL on the ground that they are a PSU. But, M/s. CEL is not a PSU of DoT and allotting such a huge quantity to this firm who were L-5 in the tender would go against our policy of placing orders for largest quantity on the lowest established bidder by way of incentive to them to quote really low prices and DoT would lose the advantage of competitive prices in the next tender.

2. In this case, I find M/s. ARM is not only the lowest bidder, but they have quoted substantially low rates and the adoption of their rates, has resulted in sizeable savings to DoT. Hence, this firm should be given at least 30% of the total quantity, *i.e.* 9000 systems. M/s. RES who is L-2, should be given at least 5000. The balance quantity may be distributed equally among the four remaining firms on whom orders have been proposed.

3. Since we must get the equipments within the shortest time possible so as to fulfil our rural telecom targets, the P.O.s may be released immediately and compliance reported to me.

Sd/-  
(Sukh Ram)  
M.O.S.(C)

## APPENDIX I

### PARAGRAPH NO. 9.1 OF THE REPORT OF C&AG OF INDIA FOR THE YEAR ENDED 31.3.1996 (NO. 6 OF 1997)

#### 9.1 Procurement of solar photo voltaic panels

Various acts of omission and commission in procurement of solar photo voltaic panels for rural telephone exchanges by DoT cost the Government an extra expenditure of Rs. 24.03 crore to the benefit of supplier firms. In the process, DoT favoured a few firms with excessive educational orders, commercial orders on non-type approved firm and gave large chunk of orders to private firms on unjustified grounds.

DoT placed supply orders for 88000 solar photo voltaic (SPV) panels at a cost of Rs. 210.41 crore, which are required in long distance public telephones system installed in panchayat villages, during 1991-95 as under:

Year	Total No. of SPV panels	Unit Price (Rs.)	Total value (Rs. in crore)
1991-93	21000@ 9000*	24400.00 22936.00	74.76
1993-94	30000@ 1200*	22489.80 22489.80	72.97
1994-95	26800@	22489.80	62.68

@ Commercial order

\* Educational orders

Scrutiny of documents in June-July 1996 relating to procurement of SPV panels disclosed the following:

#### 9.1.1 Procurement during 1991-93

*Unusually high number of educational orders were placed*

(i) DoT placed educational orders for 9000 panels on four firms during January-March 1992 which did not have type approval. Three of the four firms on which educational orders for 7000 units were placed were in the private sector.

Educational orders are placed with a view to testing the capability and quality of the equipment manufactured and therefore, these are always for small numbers. In disregard of this practice, DoT placed educational orders for large number of SPV panels constituting 30 per cent of total orders for 30000 units on firms which did not possess type approval.

*Incorrect fixation of unit rate of panels resulted in loss of Rs. 2.66 crore*

(ii) DoT had fixed the unit rate for SPV panels for commercial and educational orders at Rs. 24400 and Rs. 22936 respectively in November 1991 taking into account the element of Customs duty at 45 per cent on import of solar modules and silicon wafers instead of the then prevailing rate of 45 and 30 per cent respectively. This resulted in inflation in unit rate fixed by Rs. 904 for commercial orders and Rs. 850 for educational orders. Consequently, the department sustained loss of Rs. 2.66 crore in procurement of 30,000 SPV panels on this count alone.

*Failure to reduce the price consequent on reduction of Customs duty led to excess payment of Rs. 1.39 crore*

(iii) Meanwhile, the Customs duty on import of both SPV modules and wafers was reduced by 15 per cent *ad-valorem* from 45 to 30 and 30 to 15 per cent respectively from March 1992. DoT, however, placed educational supply orders for 7000 systems on three firms in March 1992 and commercial orders for 5000 units in January 1993 on Central Electronics Limited (CEL) at the same rates fixed in November 1991, prior to reduction of Customs duty. Failure of DoT to reduce the prices commensurate with the reduction in the Customs duty resulted in undue benefit of Rs. 1.39 crore to the firms and loss of an equivalent amount to the Government on procurement of 12000 SPV panels.

*Non-deduction of decrease in Customs duty on supplies made after scheduled date of delivery led to excess payment of Rs. 1.57 crore*

(iv) Not only the department failed to reduce the unit rates on the basis of reduction of Customs duty for orders placed after March 1992, it failed to deduct the amount of reduction in Customs duty on supplies made against the supply order for 18000 SPV panels on three Public Sector Undertakings (PSUs) placed before March 1992 in terms of purchase order which clearly provided that benefit of any reduction in statutory duty would accrue to the department. DoT, however, failed to deduct Rs. 1.57 crore from the bills of the suppliers for supply of 7642 panels made after scheduled date of delivery on account of reduction in Customs duty.

### **9.1.2 Procurement during 1993-94**

*Delay in processing and finalising the tender*

(v) DoT invited tenders for procurement of 60000 systems in April 1993. However, it placed commercial orders for only 30000 systems during October-November 1993 at Rs. 22489.80 per system on seven firms besides educational orders at the same rates for 1200 systems on other six firms. DoT reduced the total SPV units to be procured from 60000 to 31200 on the plea of reduced requirement. The reason for delay of six months in processing and finalising the rates and placing of orders after receipt of tenders was not clear.

*Adoption of rate of non-type approved firm and incorrect computation of acceptable rates led to excess expenditure of Rs. 3.05 crore :*

(vi) The international prices of the solar cells used in the SPV panels had come down since finalisation of rates for the previous purchases in November 1991. Instead of conducting a proper rate analysis to arrive at the reasonable price for counter-offer/negotiation with the firms, DoT approved the rate of Rs. 22489.80 quoted by Advanced Radio Masts (ARM) Hyderabad as the lowest on the logic that their rate was closest to the rate obtained during the previous tender finalised in November 1991 reduced by the fall in the international prices of solar cells. Since, however, ARM did not possess type approval on the date of opening of tenders, the rate quoted by this firm was not relevant. Even while justifying acceptance of the rate quoted by ARM on the basis of being closest to the previous rate of Rs. 24400 less Rs. 2170 on account of fall in the international prices of solar cells, the element of Customs duty of Rs. 977 on the amount of fall in the international prices of solar cells was ignored. This made the rate of Rs. 22489.80 quoted by ARM close to the assumed reasonable rate of Rs. 22230 but in effect was more than the realistic rate of Rs. 21253 taking into account the Customs duty element. This act of omission in procurement of 31200 SPV panels resulted in excess expenditure of Rs. 3.05 crore.

*Undue benefit to private firms ARM and RES*

(vii) Among the type approved firm, the rate quoted by Renewable Energy Systems Private Limited, Hyderabad (RES) was the lowest at Rs. 24800 per unit. As would be revealed in the following paragraph, by adopting the rate quoted by ARM as the lowest, on one hand, DoT favoured ARM with substantial portion of supply order, on the other, gave supply order of substantial quantity to RES, Hyderabad on the plea that this firm should get more orders since they had quoted the lowest rate in the type approved category.

*Commercial order on ARM without type approval*

(viii) Though ARM did not qualify for commercial orders, since it did not possess type approval on the date of opening of the bid i.e. April 1993, DoT placed commercial order for 500 units on this firm in November 1993 on the plea that the type approval was granted to this firm in August 1993. The fate of grant of type approval to other six technically acceptable firms was not known.

*Preference to PSUs in placing supply order denied in favour of RES*

(ix) As per the policy of DoT, with a view to encouraging the firms for competitive bidding, 30 to 50 per cent of the supply order is placed on the firm whose lowest rates are accepted. While on one hand, the lowest rate quoted by ARM was fixed for supply by all firms, another firm, RES, whose rates were the lowest among the type approved firms,

was given benefit of substantial order for 7500 units constituting 25 per cent of the total orders, with the approval of MOS(C) on the incorrect interpretation that this firm deserved more orders since it had quoted the lowest rate among the type approval firms. Others, which included proven PSU units viz Bharat Heavy Electricals Limited (BHEL) and CEL were given supply order of only 4500 and 7000 units respectively. Preference to PSUs in placing supply order was denied in favour of RES, Hyderabad on an unacceptable plea that these were not PSUs of DoT. This arrangement of accepting the rate of ARM, a non-type approved firm and then placing orders for a big chunk on RES on the plea that their was the lowest rate among type approved firms gave benefit of higher volume of supply order to both the firms.

### 9.1.3 Repeat orders

#### *Undue favour in placing repeat purchase orders on ARM and RES*

(x) Within six months of the supply orders placed on seven firms for 30000 units in October-November 1993, DoT placed repeat orders on five of them for a total of 17800 SPV units in May-june 1994. DoT favoured ARM, Hyderabad with the orders of MOS(C) by placing commercial orders for 9000 units in May 1994 which was far more than the orders of meagre 3200 units each placed on BHEL and CEL, which had sizeable capacity. This is notwithstanding the standard clause in the original supply order on ARM in November 1993 that repeat order not extending 100 per cent shall be placed on the firm. DoT placed repeat supply orders for a quantity 18 times the original supply order on this firm. Even RES, Hyderabad was favoured again by placing orders for 5000 units, when this firm had failed to supply 3620 units within the stipulated delivery period against earlier supply order of October 1993 for 7500 units.

#### *RES and ARM allowed more time for supply*

(xi) While other firms on whom the supply orders were placed in May 1994 were given only two months time for supply, RES, Hyderabad and ARM, Hyderabad were given delivery schedule of six months from the date of supply orders. ARM failed to supply 7200 units even within the elongated delivery period.

#### *Undue favour of Rs. 4.38 crore to ARM on supplies made after the delivery schedule*

(xii) In between, ARM quoted the lowest rate of Rs. 16885 per system in response to NIT issued by DoT in September 1994. In spite of non-fulfilment of the supply by ARM within the delivery schedule, wherein DoT had option to foreclose the supply order, DoT chose to procure the remaining units against the earlier supply order of May 1994 from the firm at the earlier higher price of Rs. 22489.80 rather than foreclosing the supply order on the ground of non-adherence to delivery schedule. This resulted in an undue favour of Rs. 4.38 crore to ARM on supply of 7200

units supplied after the scheduled date of delivery. The option of DoT to charge liquidated damages of Rs. 0.34 crore for delay in supply rather than foreclosing the supply order which could have saved Rs. 4.04 crore to the department was not prudent.

*Excess expenditure of Rs. 10.98 crore on repeat order*

(xiii) Strangely, DoT did not include the standard term of repeat supply orders in vogue in the department that any reduction in the rate received in response to the tender for that year would be applicable to the repeat supply orders also. Interestingly, DoT included this condition in supply orders for SPV panels placed on ITI, Bangalore, in October 1994, in which subsequent reduced rates fixed by the department were made applicable with a financial gain of Rs. 2.17 crore. This act of omission/commission resulted in an excess expenditure of Rs. 10.98 crore on the repeat orders for 19600 SPV panels on six firms as under:

Name of the firm	Number of SPV panels	Excess expenditure (Rs. in crore)
ARM	1800	1.01
RES	5000	2.81
TATA	3200	1.79
CEL	3200	1.79
BHEL	3200	1.79
REIL	3200	1.79
<b>Total</b>	<b>19600</b>	<b>10.98</b>

**Summing up**

DoT favoured private firms by placing educational orders for large number of SPV panels constituting 30 per cent of the total orders. It inflated the unit rate by reckoning incorrect rate of Customs duty for commercial and educational orders in November 1991, resulting in a loss of Rs. 2.66 crore. DoT did not reduce the price of SPV panels consequent upon reduction of Customs duty for supplies made after 1 March, 1992 and also not affected the reduction in Custom duty in respect of supplies made after the scheduled date of delivery resulting in excess payment of Rs. 2.96 crore. Besides, incorrect computation of rates of SPV panels due to fall in international prices of solar cells during 1993-94 led to excess expenditure of Rs. 3.05 crore. Commercial orders were placed on ARM though it did not qualify for the same due to not having type approval of their product at the time of bidding. ARM was also given undue benefit of Rs. 4.38 crore on supplies made after the scheduled date of delivery. Besides, non-inclusion of the standard term applicable to repeat supply orders led to

excess expenditure of Rs 10.98 crore on supply orders on six firms including ARM in nutshell, the acts of omissions/commissions resulted in undue benefit of Rs 24.03 crore to the firms and loss of an equivalent amount to DoT. Besides, the entire procurement of SPV panels highlights lack of transparency in the purchase procedure in DoT.

The matter was referred to the Ministry in September 1996; their reply was awaited as of December 1996.

## APPENDIX II

### CONCLUSIONS AND RECOMMENDATIONS

Sl. No.	Para No.	Ministry/ Deptt.	Conclusions/Recommendations
1	2	3	4
1.	55	Ministry of Communications (Deptt. of Telecommunications)	The Committee note with profound concern that the Department of Telecommunications (DoT) extended undue benefit of Rs. 24.03 crore to the suppliers in purchase of 88,000 Solar Photo Voltaic (SPV) panels at a cost of Rs. 210.41 crore, which were used in rural telecom network during 1991—95. It placed commercial orders on ineligible firms after entertaining post bid interventions from them. DoT did not enforce the provision of the purchase order to safeguard the interest of the Government which led to extending favours to the firms. It did not short close the tender after expiry of the delivery schedule, even when it was aware of steep reduction in prices of SPV panels. Besides, DoT adopted discriminatory treatment towards some firms, both in placement of supply orders as well as in prescribing the delivery period and favoured the private firms at the cost of proven Public Sector Undertakings (PSUs). Repeat orders were placed at a time when prices were falling and that too without protecting the Government interest.
2.	56	-do-	The educational orders are generally placed for small quantities for testing the quality of the product and the capability and credibility of the manufacturer. However, the Committee observe that, in flagrant violation of this practice, DoT placed educational orders for a large number of panels constituting 30 percent of the total orders for 30,000 units on four firms during January-



1

2

3

4

March, 1992 which did not possess type approval. Explaining the reasons in this regard the Chairman, Telecom Commission admitted during evidence that in the anxiety to expand the vendor base the educational orders exceeded the limit and further, in the first tender, at that time, there was also no conscious policy. However, the Committee feel strongly that the purpose of widening the base would have been served equally well by placing educational orders for nominal quantity *i.e.* 200 Nos. a practice followed by DoT in the subsequent tender.

3. 57 Ministry of The Committee's examination has further  
 Communica- revealed that the DoT did not take the correct  
 tions value of customs duty into account while fixing  
 (Deptt. of the price of the SPV panels. While working out  
 Telecommu- the reasonableness of the rates demanded by  
 nications) the firms in September 1991, DoT reckoned the  
 rate of customs duty at 45 per cent *ad-valorem*,  
 instead of 30 per cent on silicon wafers. This  
 contributed to fixation of higher rate for each  
 panel in commercial as well as educational  
 orders. The impact of this error aggregated to  
 an excess payment of Rs. 2.66 crore. The  
 Committee found that there was no acceptable  
 explanation forthcoming from the DoT  
 regarding the method adopted for price fixation  
 of SPV panels. DoT have stated that they  
 procure equipment and material by open  
 tendering without necessarily going into price  
 structure of each and every component. DoT  
 presumed that in a system of competitive  
 bidding prices were fixed on the basis of lowest  
 quote of eligible bidder and that in which every  
 bidder would take into account the import  
 content, customs duty implications and relevant  
 factors. The Committee note that the way the  
 price fixation mechanism was left entirely by  
 DoT at the whims and fancies of the bidders,  
 speaks volumes for the casual and irresponsible  
 role of the Tender Evaluation Committee

1	2	3	4
			<p>(TEC) of the Department which led to pecuniary loss of Rs. 2.66 crore to the DoT. The Committee would like the DoT to evolve suitable parameters in keeping with sound business principles and prudent commercial practices so that the TEC takes into account all relevant factors and circumstances in the best interest of the DoT before making such crucial recommendations.</p>
4.	58	<p>Ministry of Communications (Deptt. of Telecommunications)</p>	<p>The Committee are amazed that DoT was not even aware that the rates of central excise and customs duty had undergone changes in the annual budget. There was reduction in customs duty on import of both SPV modules and wafers by 15 percent <i>ad-valorem</i> from March 1992. However, DoT placed educational supply orders for 7000 systems on three firms in March, 1992 and commercial orders for 5000 units in January 1993 on CEL at the same rates fixed in November 1991 <i>i.e.</i>, prior to reduction in customs duty resulting in undue benefit of Rs. 1.39 crore to the firms and loss of equivalent amount to the Government. Further, the Committee find that the Department also failed to deduct the amount of Rs. 1.57 crores as reduction in customs duty on supply made against the supply order for 18000 SPV panels on three PSUs placed before March 1992 in terms of purchase order which clearly provided that benefit of any reduction in statutory duty would accrue to the Department. The Committee are shocked to find that the DoT, expected to run on sound business principles being a commercial organisation, not only placed supply orders at the earlier rate after reduction of the customs duty but also failed to deduct the amount equivalent to the reduction in the customs duty on the supplies made after the scheduled delivery period. The Committee are of the considered view that this is a fit case where the DoT must fix individual responsibility whose negligence or complicity contributed to a</p>

1	2	3	4
			<p>loss of Rs. 2.96 crore to the Government. The Committee desire that fully satisfactory action taken report in this regard be submitted to them at an early date.</p>
5.	59	<p>Ministry of Telecommu- nications) (Deptt. of Telecommu- nications)</p>	<p>The Committee further note with grave concern that the DoT did not invoke the standard terms and conditions of the contract by not taking into account the reduction in customs duty while placing orders for SPV units. The Committee feel that after the customs duty had been slashed, the DoT should have brought the matter to the notice of the concerned firms while negotiating price fixation of the SPV units. DoT admitted in a note that the cognizance of reduction in customs duty was not taken while placing order for SPV units in March, 1992 and January 1993 respectively and in respect of supplies made after scheduled date of delivery. When asked during evidence whether the whole deal smacked of malafide, the Chairman, Telecom Commission, admitted that "it was an irregularity and an irregularity could be procedural as well as administrative". He further agreed that "the question of reduction in customs duty was not attended to". The Committee, therefore, conclude that the failure to take into account the element of reduction in customs duty while processing the price of SPV units resulted in huge avoidable excess payment to the firms to the tune of Rs. 5.62 crore. The Committee therefore suggest that a high level inquiry must be conducted expeditiously to pinpoint the responsibility for such a costly procedural and administrative irregularity.</p>
6.	60	-do-	<p>The Committee further observe that the Department invited tenders for procurement of 60,000 SPV systems in April 1993. However, it placed commercial and educational orders for 30,000 and 1200 systems respectively reducing the total SPV units to be procured from 60,000 to 31,200 during October-November 1993 at</p>

1

2

3

4

ks. 22,489.80 per system. The Witness maintained during evidence that "the VPT was a high priority item and so targets were fixed at a high level initially. But later on they were reduced because it was realised that the target of this magnitude was not capable of being realised. I would, therefore, agree with you that the target that was originally estimated was not a realistic one". Far from pleased with the argument of the Ministry, the Committee note that the Department failed to finalise and place orders for about six months after receipt of tenders in April 1993. The Committee find that extremely unrealistic target was fixed by DoT for procurement of SPV units which only raises questions on the ability of the Department to make a realistic assessment of its own requirements. The Committee expresses its unhappiness over this and hope the Department will hereafter exercise due care while making assessment of its requirements.

7. 61

Ministry of  
Communications  
(Deptt. of  
Telecommu-  
nications)

The audit has also revealed that the international prices of the solar cells used in the SPV panels had come down since finalisation of rates for the previous purchases in November 1991. However, the Committee are shocked to note that instead of conducting a proper rate analysis to arrive at the reasonable price for counter offer/negotiation with the firms, DoT approved the rate of Rs. 22,489.80 quoted by M/s Advance Radio Masts (ARM), assuming the unit price of SPV modules fixed in 1991 as the reference point for working out the rate reasonableness for procurement during 1993-94. Although the DoT took note of the fall in the international price of the solar cells while working out the reasonable price yet they altogether omitted the customs duty element on account of reduction in the international price of the solar cells. The Committee find that this significant omission inflated the unit price

1 2 3

4

determined in October 1993 by Rs. 977 and the impact on exchequer was an excess payment of Rs. 3.05 crore on purchase of 31,200 SPV panels during 1993-94. According to a calculation made by Audit, if the play in the rate of 1991, which was taken as reference point for fixing the rate of 1993-94 is also taken into account, the excess payment to the suppliers would work out to Rs. 5.87 crore. The Committee, therefore, recommend that the Department investigate whether such a significant omission amounted to mere grave dereliction of duty or breach of trust on the part of concerned official (s). The Committee also recommend that only the officers of proven integrity and capable of protecting Government interest should be posted to such sensitive posts at decision making levels.

8. 62 Ministry of Communications (Deptt. of Telecommunications.)
- Another disquieting feature which has been causing concern to the Committee is that the DoT adopted the rate quoted by ARM, not being a type-approved firm on the date of tendering, as the lowest and also favoured the latter with substantial portion of supply order. The Committee are perturbed to note that it was not clear whether any systems and control existed in the Department to ensure transparency in grant of type-approval so crucial for placing supply orders. While ARM was given type approval within record 52 days and favoured with huge supply order, other firms like Keltron, BEL, Siemens, Pentafour Products and ITI Allahabad were granted type approval between March 1994 and October 1994. Further, the Committee are surprised to find that in their reply to a question on the dates of receipt of applications for type approval from different firms, DoT has indicated "date of application for type approval not readily available in respect of M/s Keltron and M/s Telematics, New Delhi." The Committee feel

1	2	3	4
			<p>that it was an attempt to foreclose further scrutiny into the favourable treatment meted out to ARM in relation to grant of type approval. The Committee, therefore, desire that the matter of grant of type approval be enquired into and the Committee be apprised of the outcome.</p>
9.	63	-do-	<p>The Committee observe that two firms namely M/s RES, Secunderabad and M/s ARM, Hyderabad were favoured by the Department in many ways. Instead of a proper rate analysis with reference to the tender of April 1993, DoT chose to justify inclusion of ARM among the firms for placing the supply orders for a very large quantity besides placing bulk of the supply order on RES during 1993 and 1994. Not being a type approved firm on the date of tendering, ARM was not eligible to be considered at all for placing commercial supply orders. The Committee find, however, that DoT brought in this firm through back door by stating that the rate offered by ARM was close to the reasonable rate worked out by them after reducing the amount of fall in the international price of solar panel from the previous purchase price. The Committee note that the lowest rate quoted by ARM, though not a type approved firm, was fixed for supply by all firms, whereas RES, whose rates were the lowest among the type approved firms, was given benefit of substantial order for 7500 units constituting 25 percent of the total orders, with the approval of the Minister of State for Communications MoS(C) on the specious argument that this firm deserved more orders since it had quoted the lowest rate among the type approved firms. In order to favour ARM, orders for 31,200 units only were placed during October-December, 1993 against the tender of 60,000 units and in the intervening period ARM was given type approval in August 1993 against</p>

1	2	3	4
			<p>their application of July 1993 and later given order for supply of 9,000 units. The Committee draw the unmistakable inference that undue favour was shown to M/s ARM and M/s RES who, between them, bagged supply orders for 14,000 units out of the total of 26,800 units for which DoT placed supply orders in May-June 1994, while others like BHEL, CEL, REIL etc. got orders for only 3200 units each.</p>
10.	64	Ministry of Communications (Deptt. of Telecommunications)	<p>The Committee further note that it was the policy of the DoT to give purchase preference to Public Sector Undertakings (PSUs) when their rates were comparable with the rates of private companies. On this, DoT maintained in a note that the purchases by them were of large quantities and no single firm could have perhaps met the entire requirement. The Committee are unable to share the perception of the Department and feel that the combined capacities of M/s BHEL and M/s CEL were good enough for the entire supply of SPV units after 1991-92 as per the information furnished to the Committee by the Department. The Committee desire that, other thing being equal, preference must be given to PSUs so that their often idle capacities are utilised to the optimum.</p>
11.	65	Ministry of Communications (Deptt. of Telecommunications)	<p>Another grey area, where the Committee feel undue favour was given to these two firms was in the placing of repeat purchase orders for SPV units on them. The Committee find that DoT favoured ARM with the orders of the MoS(C) dated 21 April, 1994 (Annexure-II) by placing commercial orders for 9000 units in May 1994, notwithstanding the standard clause in the original supply order on this firm in November 1993 that repeat order not exceeding 100 percent shall be placed on the firm. However, the Committee are surprised to find that DoT placed repeat supply orders of a quantity 18 times the original supply order on this firm. DoT have stated that as ARM quoted the lowest price in the tender, which became the</p>

1

2

3

4

basis of procurement of entire quantity of 60,000 SPV panels, it was decided to place orders for 9000 units on ARM only after it had executed the educational order and had become established supplier. Further, the Committee note that the DoT placed repeat supply order on M/s RES for 5000 units in May 1994 despite the fact that the firm had failed to complete the supply as per delivery schedule against an earlier supply order of October 1993 for 7500 units. The Committee, were also informed during evidence that originally an order of 6000 units was proposed for ARM under the repeat order. But they find to their consternation that the MoS(C) had directed that supply order to M/s ARM should be increased from 6000 to 9000. The Committee were also informed by the Chairman, Telecom Commission, during evidence that there were other examples also where the MoS(C) had advised for fixing particular quantum of SPV panels while placing orders on various firms, and one of these cases was the subject-matter of C.B.I. inquiry.

12. 66 Ministry of Communications (Deptt. of Telecommunications) Another related aspect which engaged the attention of the Committee was that while other firms on whom the supply orders were placed in May 1994 were given only two months' time for supply, M/s RES and ARM were given delivery schedule of six months from the date of supply orders. However, the Committee find that ARM failed to supply 7200 units even within the elongated delivery period. According to the DoT, the delivery period was fixed keeping in view the quantum of orders on the firms and since ARM and RES were given orders for larger quantities, these firms were given more time for supply. The Committee note that the reply of the Department is far from acceptable as a delivery period of four months was given for supply of 7500 units by RES in October 1993, while a delivery period of six months was



1 2

3

4

granted to this firm in respect of the repeat order of 5000 units placed in May 1994. Similarly, in the case of ARM six months were given for supply of 9000 units as against just four months given to RES and CEL for supply of 7500 and 7000 units respectively. From a close and critical scrutiny of written replies furnished by DoT to the Committee in response to their queries and the examination of the witnesses, the Committee observe that, the two firms—ARM & RES— were shown undue favours apparently for extraneous considerations, without any resistance or even whimper of protest from DoT. The Committee are appalled to note this attitude of complete surrender/complicity/connivance on the part of some higher officials of DoT which helped foist such a blatant irregularity. The Committee cannot but deplore that those who had a duty to point out the implications of the order of the Minister became mute bystanders rather instruments in the execution of irregular orders. Taking note of the arbitrary and adhoc manner in which the delivery schedule was fixed for supply of SPV panels by different firms without giving due regard to the quantity to be supplied, the Committee consider that it would be proper and essential to include this aspect as well within the ambit of independent ongoing investigation.

13. 67

Ministry of Yet, another matter which has caused considerable concern to the Committee is undue favour shown to M/s ARM on supplies made (Deptt. of after the delivery schedule. The Committee Telecommu- note that ARM quoted the lowest rate of Rs. 16,885 per system in response to a Notice Inviting Tender (NIT) issued by DoT in September 1994. They find that despite the failure of ARM to effect supplies within delivery schedule, and the option available with the DoT to foreclose the supply order as per the terms of the contract, the latter chose to

1

2

3

4

procure the remaining units against the earlier supply order of May 1994 from the firm at the earlier higher price of Rs. 22489.80 rather than foreclosing the supply order on the ground of non-adherence to delivery schedule. This resulted in an undue favour of Rs. 4.38 crore to ARM on supply of 7200 units supplied after the scheduled date of delivery. The Committee strongly deplore the action of DoT to charge liquidated damages of Rs. 0.34 crore for delay in supply rather than foreclosing the supply order which could have saved Rs. 4.04 crore to the Department. According to DoT the purchase order on ARM was issued on 23.5.1994 with delivery upto 22.11.1994. The extension in delivery period was granted upto 31.12.1994 with levy of liquidated damage charges on 14.11.1994 for 40 days prior to opening of the new tender on 20.12.1994. The Committee find that the extension was granted to the firm at the rates prevailing at that time. Against this background, the Committee observe that DoT themselves had in October 1994 placed order for 19630 units on ITI at a provisional rate of Rs. 17991.84 which was subsequently reduced to Rs. 16885 on the basis of the rate fixed for 1994-95. In this context, the Committee are deeply concerned to note that ARM was allowed to continue the supply at the old higher rate even when they had themselves quoted much lower rate and DoT had placed order on a lower rate. The Committee are further shocked to find that ARM was allowed to continue supply at the higher rate even after the date of expiry of the extended period and much beyond the date of the tender for 1994-95. The Committee, therefore, strongly recommend that the matter should be investigated expeditiously and strongest punitive action taken against those who took the decision to charge liquidated damage for delay in supply rather than foreclosing the supply

1 2

3

4

---

order particularly when DoT themselves had placed order on ITI in October 1994 at drastically reduced prices.

14. 68      **Ministry of Communications (Deptt. of Telecommunications)**      The Committee find that DoT did not invoke the standard term of repeat supply orders in vogue in the department that any reduction in the rate received in response to the tender for that year would be applicable to the repeat supply orders also. The failure of DoT to invoke the standard clause of the contract resulted in an excess expenditure of Rs. 10.98 crore on the repeat orders for 19,600 SPV panels on six firms and ARM and RES were the major beneficiaries among others. According to the Department, the policy of giving new tender rate in the event of its being lower was invoked only in those cases where the delivery schedules of the earlier purchase orders were extended. However, the contention of DoT stands completely demolished in view of the fact that the Department included this condition in supply orders for SPV panels placed on ITI Bangalore, in October 1994, in which subsequent reduced rates fixed by them were made applicable with a financial gain of Rs. 2.17 crore. Thus, the Committee note that it was a common practice in DoT that in cases where the finalisation of the rate for the next year's purchase was delayed, the supply orders were placed at provisional price, which were subject to revision in accordance with the price fixed in the tender for the current year's purchases. While deprecating such an unconscionable lapse which resulted in a loss of Rs. 10.98 crore to the exchequer, the Committee desire that responsibility should be fixed for such a grave lapse and stringent action taken against persons who showed undue favour to private firms and brought avoidable pecuniary loss to the Government.
-

1	2	3	4
15.	69	<b>Ministry of Communications (Deptt. of Telecommunications)</b>	<p>Another aspect which engaged the attention of the Committee is related to the manufacture or supply of SPV panels by different firms. The Committee note that CEL and BHEL have a very large capacity for manufacture of SPV panels. However, they feel that in the absence of any monitoring/inspecting mechanism, it was not clear whether other firms had established the facility or were supplying them after procuring the same or importing the panels. The Committee recommend that a suitable mechanism should be evolved by the Department so as to ascertain whether the supplier firms were purchasers/manufacturers. They would also like to be informed as to which firms were actual producers/manufacturers and which not in the matter under examination.</p>

## PART II

### MINUTES OF THE TWELFTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (1997-98) HELD ON 29 SEPTEMBER, 1997

The Committee sat from 1100 hrs. to 1430 hrs. on 29 September, 1997 in Committee Room "D", Parliament House Annexe, New Delhi.

#### PRESENT

Dr. Murli Manohar Joshi—*Chairman*

#### MEMBERS

##### *Lok Sabha*

2. Shri Anandrao Vithoba Adsul
3. Shri Nirmal Kanti Chatterjee
4. Shri Ramesh Chennithala
5. Shri Prithviraj D. Chavan
6. Prof. Ajit Kumar Mehta
7. Shri V.V. Raghavan

##### *Rajya Sabha*

8. Shri R.K. Kumar
9. Smt. Margaret Alva
10. Shri Surinder Kumar Singla
11. Shri Vayalar Ravi

#### SECRETARIAT

1. Shri J.P. Ratnesh — *Addl. Secretary*
2. Shri P. Sreedharan — *Deputy Secretary*
3. Shri Rajeev Sharma — *Under Secretary*

#### OFFICERS OF THE OFFICE OF C&AG OF INDIA

1. Shri I.P. Singh — *Addl. Dy. C&AG*
2. Shri Vijay Kumar — *Director General of Audit (P&T)*
3. Shri A.K. Thakur — *Pr. Director of Audit (Reports-Central)*

#### Representatives of the Ministry of Communications (Department of Telecommunications)

1. Shri A.V. Gokak — *Chairman, Telecom Commission*
2. Shri A. Prasad — *Member (Finance)*
3. Shri P. Khan — *Member (Production)*

2. At the outset, the Committee expressed their extreme happiness over the successful launching of PSLV—1D from Shriharikota. While applauding this glorious achievement of Indian scientists in space technology, the Committee desired that a telegram might be sent by the Secretariat on behalf of the Chairman and Members of the Committee felicitating Dr. K. Kasturirangan, Secretary (Department of Space) and his team on the successful launching of PSLV and stating that the nation was proud of them.

3. Then the Officers of the Office of the C&AG of India explained the salient points arising out of paragraph 9.1 of the Report of the C&AG of India for the year ended 31 March, 1996, No. 6 of 1997, Union Government (Post & Tele-communications) relating to "Procurement of Solar Photo Voltaic Panels". Thereafter, the representatives of the Ministry of Communications (Department of Tele-communications) were called and the Committee took their evidence on the said Audit paragraph.

4. A copy of the verbatim proceedings of the sitting has been kept on record.

*The Committee then adjourned.*

**MINUTES OF THE TWENTY FOURTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (1998-99) HELD ON 7 APRIL, 1999**

The Committee sat from 1500 hrs. to 1715 hrs. on 7 April, 1999 in Room No. 62, Parliament House, New Delhi.

**PRESENT**

Shri Manoranjan Bhakta — *Chairman*

**MEMBERS**

*Lok Sabha*

2. Shri Prithviraj D. Chavan
3. Smt. Bhavna Chikhalia
4. Maj. Gen. B.C. Khanduri
5. Prof. Ajit Kumar Mehta
6. Shri Ch. Vidyasagar Rao
7. Dr. T. Subbarami Reddy
8. Shri Prabhat Kumar Samantaray
9. Prof. Saifuddin Soz

*Rajya Sabha*

10. Shri K.R. Malkani
11. Shri Satishchandra Sitaram Pradhan
12. Shri J. Chitharanjan
13. Shri Jayant Kumar Malhoutra
14. Shri K. Rahman Khan

**SECRETARIAT**

1. Shri A.K. Pandey — *Addl. Secretary*
2. Shri P.D.T. Achary — *Joint Secretary*
3. Shri Devender Singh — *Deputy Secretary*
4. Shri Rajeev Sharma — *Under Secretary*
5. Shri S.C. Kaliraman — *Assistant Director*

**REPRESENTATIVES OF THE OFFICE OF C&AG OF INDIA**

1. Shri T.S. Narasimhan — *Addl. Dy. C&AG (P&T)*
2. Shri P.K. Kataria — *Director (P&T)*

**REPRESENTATIVES OF THE MINISTRY OF COMMUNICATIONS (DEPARTMENT OF TELECOMMUNICATIONS)**

1. Shri Anil Kumar — *Chairman, Telecom. Commission*
2. Shri A. Prasad — *Member (Finance)*
3. Shri R.N. Goyal — *Member (Prod.)*

2. \*\*\* \*\*\* \*\*\*
3. \*\*\* \*\*\* \*\*\*

4. After the conclusion of the evidence the Committee took up for consideration the draft Report on Paragraph 9.1 of the C&AG's Report

for the year ended 31 March 1996, No. 6 of 1997 relating to "Procurement of Solar Photo Voltaic Panels". The Committee adopted the draft Report without any modification/amendment.

5. The Committee also authorised the Chairman to finalise the draft Report in the light of verbal and consequential changes arising out of factual verification by Audit and present the same to Parliament.

*The Committee then adjourned.*