

123

INEFFECTIVE MONITORING BY APEDA

**MINISTRY OF COMMERCE AND INDUSTRY
(DEPARTMENT OF COMMERCE)**

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

ONE HUNDRED AND TWENTY THIRD REPORT

SIXTEENTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

PAC NO. 2162

ONE HUNDRED AND TWENTY THIRD REPORT

PUBLIC ACCOUNTS COMMITTEE
(2018-19)

SIXTEENTH LOK SABHA

INEFFECTIVE MONITORING BY APEDA



सत्यमेव जयते

Presented to Lok Sabha on:

Laid in Rajya Sabha on:

LOK SABHA SECRETARIAT
NEW DELHI

December, 2018/

Agrahayana, 1940 (Saka)

CONTENTS

		PAGE NO.
	COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2018-19)	
	COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2017-18)	
	INTRODUCTION	
	PART - I	
	CHAPTER - I	
	INTRODUCTION	
I	Introductory	
II	Agriculture and Processed Food Products Export Development Authority (APEDA) and Spices Board (SB).	
III	Background on ineffective monitoring by APEDA	
IV	Note on Ineffective monitoring by APEDA	
V	Accounting for loss in the Project	
VI	Response on the issue raised	
VII	ASIDE Guidelines and TIES	
	PART - II	
	Observations/recommendations of the Committee	
	APPENDICES	
I.	Minutes of the Ninth sitting of the Public Accounts Committee (2018-19) held on 11 July, 2018	
II.*	Minutes of the Twentieth sitting of the Public Accounts Committee (2018-19) held on 5 December, 2018	

* To be appended at the time of Printing.

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2018-19)

Shri Mallikarjun Kharge - **Chairperson**

MEMBERS

LOK SABHA

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

RAJYA SABHA

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

SECRETARIAT

1. Shri A.K. Singh - Additional Secretary
2. Shri T. JayaKumar - Director
3. Smt. Bharti S. Tuteja - Deputy Secretary

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2017-18)

Shri Mallikarjun Kharge

-

Chairperson

MEMBERS

LOK SABHA

2. Shri Sudip Bandyopadhyay
3. Shri Subhash Chandra Baheria
4. Shri Prem Singh Chandumajra
5. Shri Nishikant Dubey
6. Shri Gajanan Chandrakant Kirtikar
7. Shri Bhartruhari Mahtab
8. Smt. Riti Pathak
9. Shri Neiphiu Rioh¹
10. Shri Abhishek Singh
11. Prof. Ram Shanker
12. Dr. Kirit Somaiya
13. Shri Anurag Singh Thakur
14. Shri Shivkumar C. Udasi
15. Dr. P. Venugopal

RAJYA SABHA

16. Shri Naresh Agrawal
17. Shri Satyavrat Chaturvedi
18. Shri Bhubaneswar Kalita
19. Shri Mohd. Ali Khan²
20. Shri Sukhendu Sekhar Roy³
21. Shri Ajay Sancheti
22. Shri Bhupender Yadav

¹ Ceased to be a Member of Committee consequent upon acceptance of his resignation from Lok Sabha w.e.f. 22 February, 2018.

² Elected w.e.f. 29 December, 2017 in lieu of vacancy caused due to retirement of Shri Shantaram Naik.

³ ceased to be a Member of Committee consequent upon his retirement from Rajya Sabha on 18 August, 2017 and re-elected w.e.f. 29 December, 2017.

INTRODUCTION

I, the Chairperson, Public Accounts Committee (2018-19), having been authorised by the Committee, do present this One Hundred and Twenty-third Report (Sixteenth Lok Sabha) on '**Ineffective Monitoring by APEDA**' based on Para No. 7.1 of C&AG Report No. 12 of 2017 relating to the Ministry of Commerce and Industry (Department of Commerce).

2. The C&AG Report No. 12 of 2017 was laid on the Table of the House on 21 July, 2017.

3. The Public Accounts Committee (PAC) selected Para 7.1 of C&AG Report No. 12 of 2017 for examination in 2017-18 and was further selected and examined by PAC in 2018-19.

4. The Public Accounts Committee (2018-19) took oral evidence of the representatives of Ministry of Commerce and Industry (Department of Commerce) on aforementioned para on 11 July, 2018

5. The Public Accounts Committee (2018-19) considered and adopted the One Hundred and Twenty-third Report on the afore-mentioned para from C&AG Report at their sitting held on 5 December, 2018. The Minutes of the sittings are appended to the Report.

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

7. The Committee would like to express their thanks to the representatives of the Ministry of Commerce and Industry (Department of Commerce) for tendering evidence before them and furnishing the requisite information to the Committee in connection with the examination of the subject.

8. The Committee also 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 December, 2018
22 Agrahayana, 1940 (Saka)

Mallikarjun Kharge
Chairperson
Public Accounts Committee

PART I

I INTRODUCTORY

The Para No. 7.1 of C&AG Report No. 12 of 2017 on APEDA deals with “Ineffective monitoring by APEDA” that resulted in non-utilisation of grants for the intended purpose. The Audit has pointed out that Agriculture and Processed Food Products Export Development Authority (APEDA) sustained a loss of ₹ 1.77 crore towards interest payable on funds received from Ministry of Commerce & Industry (MoCI), as an identical clause for levy of interest was not inserted in the Memorandum of Understanding (MoU) signed with Spices Board (SB). The Public Accounts Committee (2018-19) understand that MoCI launched Assistance to States for Developing Export Infrastructure and Allied Activities (ASIDE) Scheme in March, 2002 with an objective to involve the States in the growth of export by providing incentive-linked assistance to the State Governments and to create appropriate infrastructure for the development and growth of exports.

II. **Agricultural and Processed Food Products Export Development Authority (APEDA) and Spices Board (SB):**

2. The Agricultural and Processed Food Products Export Development Authority (APEDA), under the MoCI, was established by the Government of India under the Agricultural and Processed Food Products Export Development Authority Act passed by the Parliament in December, 1985. APEDA is engaged in development of industries relating to scheduled products for export, registration of persons as exporters, fixing of standards and specifications of scheduled products, improving packaging and its marketing apart from providing financial assistance to exporters under various schemes viz. transport assistance, market development, infrastructure development, quality development etc. Spices Board (SB) India, an autonomous body, constituted in February, 1987 under the Spices Board Act 1986 is one of the five Commodity Boards functioning under the MoCI and is responsible for the export promotion of the 52 scheduled spices and development of Cardamon (Small and Large).

3. The Public Accounts Committee (2018-19) while examining Chapter VII, Para No. 7.1 of C&AG Report No. 12 of 2017 undertook oral evidence of the Ministry of Commerce and Industry during their sitting held on 11 July, 2018.

III. Background on ineffective monitoring by APEDA

4. As per Audit, Ministry of Commerce & Industry (MoCI) approved a proposal (August 2010) submitted by Spices Board (SB) for setting up Spices Park in Guna, Madhya Pradesh under the scheme 'Assistance to States for Developing Export Infrastructure and Allied Activities (ASIDE)'. The total cost of the project was ₹ 45.19 crore in which the contribution of Government of India was ₹ 19.00 crore. As per funding pattern issued by MoCI in May 2011, APEDA was to contribute ₹ 6.12 crore (₹ 3.06 crore in two phases) towards construction of cold storage of 3000 MT capacity. The project was to be completed by 31 March, 2013. In compliance with the above directions of MoCI, APEDA approved in its 71st meeting held on 24-06-2011, financial assistance of ₹ 6.12 crore to be released to Spices Board for setting up of cold storage of 3000 MT (six modules—three modules in each phase and each module of size 675 sqm having 500 MT capacity) at Spices Park, Guna, M.P. under the scheme for Infrastructure Development. The Memorandum of Understanding (MoU) was executed between APEDA and SB on 5 January, 2012.

5. Consequently, APEDA released total amount of ₹ 5.79 crore to Spices Board, i.e. first instalment of ₹ 3.06 crore in February 2012 and second instalment of ₹ 2.73 crore in March 2013 (including an amount of ₹ 0.29 crore towards processing fee). Spices Board informed APEDA (July, 2016) that a cold storage of 374 MT capacity has been created (instead of 3000 MT capacity envisaged as per approval). Considering pro-rata cost of the capacity so created as ₹ 0.80 crore only, APEDA requested (August and October 2016) Spices Board to refund the balance amount of ₹ 4.99 crore (i.e. total amount released by APEDA ₹ 5.79 crore less the pro-rata cost of ₹ 0.80 crore of cold storage constructed). Spices Board refunded (November 2016) the unutilised amount of ₹ 3.84 crore to APEDA.

6. Audit made following observations on the issue:

(i) As per Para 2(b) of the MoU with SB, second instalment was to be released by APEDA in the financial year 2012-13, only after obtaining Utilisation Certificate (UC) in the format GFR 19A, for first instalment of ₹ 3.06 crore. However, APEDA released the second installment of ₹ 2.73 crore (31 March 2013) against a UC received from Spices Board which certified that the grant received earlier has been utilised for the purpose of establishment of warehouse/cold storage. APEDA ignored the fact that the grant was approved only for cold storage and released second instalment against the above mentioned UC, in contravention of the provisions of Para 4 of the MoU which stipulated that the funds or facility shall not be diverted or utilised for the purpose other than for which it was sanctioned. APEDA also did not monitor effectively the progress of the project on monthly /quarterly basis. Moreover, a clause for furnishing of such periodical progress reports by SB was also not included in the MoU. APEDA came to know only in August 2013, when it conducted physical verification of project, that the infrastructure created at project was not in accordance with the MoU as instead of constructing cold storage, warehouses were constructed at the project.

(ii) A monitoring committee comprising representatives of Spices Board, APEDA, State Agriculture/Horticulture Department and APEDA Registered exporters was to be constituted in terms of Para 7 of MoU, to oversee the efficient functioning of the facility and to play advisory role. Accordingly, Spices Board nominated their representative to the committee on 6 February 2012 itself, i.e. before release of 1st installment of ₹ 3.06 crore by APEDA and, subsequently, constituted the committee in January 2013 wherein name of representative of APEDA was also given. First meeting of the Committee was also held on 28 February, 2013, however, APEDA was unaware of these developments till May 2013.

(iii) While releasing (September 2010) 1st installment of GoI contribution for the project, MoCI had directed to include necessary penal clause in the contract with the implementing agency, so that the project is not delayed. The same was, however, not included in MoU (January 2012) between APEDA and SB. APEDA,

however did not insist for inclusion of such a clause in the MoU entered with SB, though, in some of MoUs entered by APEDA with other implementing agencies, during the same period, contained specific penalty clause. Thus in absence of a penal clause in MoU, there was no urgency on SB to get the project completed in a time bound manner.

(iv) MoCI order for release of grant for creation of capital assets (February 2012 and January 2013) clearly stated at Clause (xvii) that 'in the event of APEDA failing to comply with terms and conditions of the sanction, it shall be liable to refund the whole or part of the grant with interest @ 10 per cent per annum thereon'. APEDA, however, did not include an identical clause in the MoU signed with Spices Board.

7. Thus, despite release of grant of ₹ 5.79 crore to Spices Board, the intended objective of constructing cold storage of 3000 MT capacity could not be achieved even after a delay of more than three years. Further, due to non-inclusion of a penal clause in MoU (so that project is not delayed), APEDA was unable to recover penalty of ₹ 0.87 crore (₹ 5.79 crore x 5 per cent x 3 years from April 2013) from SB. Management in its reply (September 2014) stated that APEDA followed the directions of MoCI and released the financial assistance (Grant) amounting to ₹ 5.79 crore to Spices Board. Management admitted that there were communication gaps in correspondence with Spices Board on constitution of the Monitoring Committee. Management further informed (November, 2016) that Spices Board has refunded (November 2016) ₹ 3.84 crore.

8. The Management's reply was not acceptable to the Audit as APEDA did not adhere to Ministry's directions (May 2011) for inserting a clause in MoU for payment of penalty to incentivise timely completion of project. The grant was diverted by SB for other purposes and remained unutilised for intended purpose for more than four years and the cold storage of 3000 MT capacity could not be constructed till November 2016. Further, APEDA has to pay interest of ₹ 1.772 crore as per terms of the sanction of grant received from MoCI. However, in the absence of identical clause in the MoU with

SB for levying interest @10 per cent on the unutilised grant, APEDA would not be able to recover the same from SB. Thus, ineffective monitoring by APEDA resulted in non-utilisation of grant of ₹ 5.79 crore for intended purpose. Instead cold storage with reduced capacity was constructed after a delay of more than three years. Moreover, APEDA sustained a loss of ₹ 1.77 crore due to non-inclusion of a clause in the MoU for levying of interest @ 10 per cent per annum on the unutilised grant, even though refunded by the Spices Board. As per Audit, the matter was reported to the Ministry in December 2016 and their reply was awaited as of January 2017.

IV. Note on ineffective Monitoring by APEDA

9. The Ministry of Commerce and Industry (Department of Commerce) in their Background Note on the subject submitted as under :

“APEDA had received a letter no. 1/25/2009-EP (Agri. V)/Plant-D dated 10.05.2011 attaching a letter no. 13/33/2010-States Cell dated 29.09.2010 which related to the project for setting up of Spice Park at Guna in Madhya Pradesh by Spices Board at a total cost of ₹ 45.19 crore. The project was supposed to be implemented in two phases with first phase at a cost of ₹ 28.51 crore and second phase of ₹ 16.68 crore.

2. The DoC’s letter of 10th May 2011 also had an attachment letter no. 1/25/2009-EP (Agri-V)/Plant-D dated 6th May 2011 which was addressed to Spices Board and mentioned that beside the contribution from ASIDE, funding pattern would be as under:

S. No.	Funding Agency	Contribution in ₹ lakh	Component
1	Spices Board	500.00	
2	Govt. of Madhya Pradesh	320.38	Approach Road
3	Cold Storage	611.76	APEDA

3. APEDA placed the proposal before the Technical Committee in its meeting held on 16th June 2011 and in the 71st meeting of the Authority held on

24.06.2011 and the proposal was approved for assistance of ₹ 6.12 Crore. As per the procedure an MoU was signed with Spices Board on 05.01.2012. The terms of payment in the MoU was as under:

2(a) ₹ 305.88 lakh as advance amount in the financial year 2011-12 after signing of MoU. The grant so received from APEDA would be maintained in a separate account by the agency.

2(b) ₹ 305.88 lakh as grant amount in the financial year 2012-13 against submission of running bills along with a UC in the format GFR19-a from competent Government Authority or Chartered Accountant firm with complete details of payments against advance amount earlier released.

4. Accordingly, APEDA released the first instalment of ₹ 305.88 lakhs on 21.02.2012.

5. APEDA wrote several letters to Spices Board viz letter dated 30.04.2012, 10.09.2012, 12.12.2012 and also letter dated 03.12.2012 from Chairman, APEDA to the Chief Secretary, Govt. of Madhya Pradesh for speedy implementation of the project. APEDA also wrote to APMC, Madhya Pradesh on 02.01.2013 forwarding details of this project.

6. In March 2013, APEDA received the UC and running bills for an amount of ₹ 273.08 lakhs for from Spices Board mentioning that assistance had been utilized for the purpose of establishment of warehouses/cold storage for which it was sanctioned.

7. Based on these bills and UC, APEDA had released the 2nd instalment of ₹ 273.08 lakhs on 31.03.2013.

8. However, later during a physical verification conducted by APEDA on 14.08.2013 it was found that no cold storages were established by Spices Board and instead warehouses were built. APEDA sought clarification from Spices Board on this deviation vide email dated 19.08.2013. APEDA made several correspondences to Spices Board for implementation of the project as per the clause 4 of the MoU which states that the funds or facility shall not be diverted or utilized for purpose other than for which it was sanctioned. Spices Board was

advised to create the infrastructure as per MoU and provide a time schedule for completion of the project.

9. In their reply of 25.11.2013, Spices Board mentioned that the deviation was not made purposefully but based on the request of stakeholders. The Board would initiate steps for establishing more cold storages in a phased manner. Initially Spices Board informed vide letter dated 17.09.2014 that they will initiate steps for construction of cold storage of 1000 MT for which tendering process was done.

10. APEDA vide its letter dated 13.01.2014, 24.04.2014 and 12.08.2014, sought the status of the project from Spices Board.

11. Meanwhile, on 19.08.2014, Govt. audit party submitted Half Margin no. 44 pointing out the discrepancies in the project implementation.

12. Chairman, APEDA wrote to Spices Board on 3.9.2014 requesting for early implementation of the project. APEDA's official also met representative of Spices Board on 3.9.2014 at their office in Cochin to discuss the implementation of the project wherein it was informed by Spices Board that the construction of cold storage could not be initiated as DoC did not approve the 2nd phase of the project. During the discussion, Spices Board further informed APEDA that due to cost escalation they would be able to establish cold storage of 1000 MT capacity only.

13. Based on the report of C&AG highlighting diversion of funds in the project, Chairman, APEDA wrote to Joint Secretary, DoC on 8.10.2014 for his intervention in the matter and requested him to issue suitable directions to the Spices Board for implementation of the project as per MoU signed by them with APEDA.

14. APEDA followed up the issue with Spices Board vide letters dated 18.02.2015, 11.05.2015, 20.05.2015, 02.07.2015, 22.12.2015, 1.4.2016 and 19.04.2016

15. However, vide letter dated 24.05.2016 it was informed by the Spices Board that they had actually constructed a cold storage with a capacity of 374 MT instead of 3000 MTs incurring an expenditure of ₹ 179.60 lakhs. In reply,

APEDA wrote to Spices Board to refund the excess amount to APEDA immediately.

16. Accordingly, Spices Board remitted an amount of ₹ 384.00 lakhs through RTGS on 9.11.2016.”

V. Accounting for loss in the project

10. During the course of evidence, Commerce Secretary submitted that :

“ **** **

Coming to the main point which is the Para 7.1 of the Audit Report as it pertains to this particular project to the Spices Park at Guna, Madhya Pradesh. I would, at the outset, agree that there has been some lack of oversight over this project and we would like, on behalf of the Department, to assure the Committee that we are working now based on this input to strengthen the oversight and the monitoring of the projects which are being funded by the Ministry.

The second point that I would like to make is that the, if I may say, both the Spices Board and the APEDA are the organisations under the Ministry of Commerce funded through the Budget of the Ministry of Commerce. Perhaps, it is a notional loss. However, we take note of the gravity of this lack of oversight and, particularly, in the subsequent scheme of the trade infrastructure scheme which we have brought which is a successive scheme. We have made sure that we have put in rigorous monitoring and oversight provisions.”

11. On this submission, when being asked to clarify as to how does the MoCI quantify it as zero loss, the Commerce Secretary stated as under:-

“Sir, both these agencies receive budgetary grants from the same Department/Head. That is the only observation that I am making. If it had been taken from one grant by the Ministry of Commerce to another grant by the Ministry of Commerce, it would have been the notional loss in that sense.”

VI. Response on the issue raised

12. Against the queries such as 'Why APEDA did not monitor the progress of the project which resulted in building of warehouses instead of cold storage facility? Do you think that getting the amount refunded absolves the APEDA of its responsibility?', the MoCI in their post-evidence reply stated as under:-

“This particular project was primarily a project funded under ASIDE Scheme of DoC and APEDA was advised only to earmark a fund of ₹ 6.12 crore to be disbursed in two phases. However, APEDA did monitor the progress of the project.

APEDA regularly wrote letters to Spices Board and held meetings to seek information on progress of the project. On being informed by the Spices Board that after holding number of meetings with the stakeholders, it was decided to establish two warehouses in the first phase and one cold storage of 1000 MT in the 2nd phase with APEDA's financial assistance, APEDA insisted on implementation of the project as per the MoU Spices Board had signed up with APEDA.

After Spices Board failed to utilize the funds received from APEDA for the intended purpose i.e. construction of cold storage, APEDA insisted on a refund and was able to recover an amount of ₹ 3.84 Cr. APEDA is continuing its efforts to recover the remaining amount and interest from the Spices Board.”

13. On the issue of monitoring, when asked that 'What action has been taken by the Ministry against the officials of both APEDA who did not monitor the progress of its own proposal and Spices Board who in contravention of DoC's letter dated 10.5.2011 built a warehouse?', the MoCI in their post-evidence reply stated as under:-

“As per the DPR both the warehouse and cold storage were to be established. However, during the stakeholders' meeting held by the Spices Board, it came out that the average production of Seed Spices in Guna Region is in the range of 15000-20000 tonnes per year. Hence, after meeting both export and domestic demand, the carry over stock will be 15-20% of the total production. The

maximum estimated quantity available for storing would be 3000-4000 tonnes per year, for which it was proposed in the DPR to establish warehouse for more than 3000 tonnes. Since the harvesting season is very short and limited to maximum of 45 days, the requirement of storage of material for long duration would be very less. Hence, if the cold storage had been constructed initially, the utilization would have been very less. In view of these discussions, Spices Board decided to give priority to establish normal warehouses and to construct cold storages at a later stage, in a phased manner, depending on the expansion of production and successful running of the project.

It is submitted that the decision to deviate from initial plans was taken in good faith to ensure optimal utilization of Government money.”

14. On being asked ‘*What were the terms of MoU in respect of various stages of completion of the cold storage facility? Did not the MoU contain any clauses for physical inspection of the sites at various stages?*’, the MoCI stated as under:-

“ The provisions related to various stages of completion of the cold storage, as laid down in the MoU were:

- a. ₹ 305.88 lakhs as advance amount in the financial year 2011-12 after signing of MoU. The grant so received from APEDA would be maintained in a separate account by the Agency.
- b. ₹ 305.88 lakhs as grant amount in the financial year 2012-13 against submission of running bills along with a Utilization Certificate (UC).

Since this particular project was overall being monitored under the ASIDE Scheme, the MoU between APEDA and Spices Board did not specifically contain any clause for physical inspection. However, as per prevailing practice, APEDA conducted physical verification in this project as well”.

15. On a query about approval to built warehouses that ‘ *Did the Spices Board take the approval of DoC while building a warehouse instead of cold storage facility which according to Spices Board was done on the request of the stakeholders? If yes, did the Ministry inform the APEDA about the change? If no, did the Ministry take action against Spices Board?*’, the MoCI furnished the following:-

“ Construction of warehouse was included in the DPR. However, Spices Board did decide to defer the construction of cold storage based on the stakeholder consultations.”

16. On perusal of the background note, it appeared that Spices Board was working on their own whims and fancies, first they built a warehouse instead of cold storage facility, then they committed to build a cold storage having capacity of 1000MT but finally built a cold storage having capacity of 374 MT instead of initially planned 3000MT and kept APEDA out of the loop. In this backdrop when asked '*Why did not the DoC intervene and issue instructions to the Spices Board?*', the MoCI stated as under:-

“It is submitted that the Spices Board prioritized the establishment of warehouse over that of cold storage as per the requirements of farming community. The cold storage facility has been constructed in Guna park in the second phase and is being utilized. While implementing the project, the Board considered suggestions of the stakeholders and made suitable changes in the project considering the objective of the project.”

17. Further, a monitoring committee as per para 7 of MOU was constituted in January 2013 wherein name of representative of APEDA was also given. First meeting of the Committee was also held on 28 February, 2013, however when asked as to '*Why was APEDA unaware of these developments till May 2013?*', the MoCI submitted as under:-

“As per para 7 of MoU, the role of this monitoring Committee was to oversee the efficient functioning of the facility and play advisory role. Job of the Committee was to commence once the facility was set up.”

18. On being asked, '*Why was penal clause not inserted in MOU with Spices Board, which was required for time bound completion of work entrusted to Spices Board?*', the MoCI replied as under:-

“Initially, the MoUs were not standardized. There were no penalty and interest clauses in the MoUs as there were hardly any cases of non implementation of sanctioned projects. APEDA kept on improving the MoU clauses on the basis of experience it gathered from various projects and dealing with the State agencies. Subsequently a penalty clause was introduced in the MoU from the year 2012-13 onwards on the advice of the CAG auditors.

More so, since the project was overall being monitored under ASIDE Scheme and Spices Board being another organization under the same parent Ministry, the penalty clause specifically was not included in the MoU.”

19. The MoCI’s order for release of grant for creation of capital assets (February 2012 and January 2013) clearly stated at Clause (xvii) that ‘in the event of APEDA failing to comply with terms and conditions of the sanction, it shall be liable to refund the whole or part of the grant with interest @ 10 % per annum thereon’. APEDA, however, did not include an identical clause in the MoU signed with Spices Board. On being asked, ‘*What were the reasons for the same?*’ The MoCI replied as under:

“It appears that there was a perception that the interest @ 10% on the amount of unutilized grants was applicable only to grants being received by APEDA from the administrative Ministry and not to the downstream disbursements made by APEDA for individual projects. However, later as per advice of CAG the interest clause were also included in the MoUs from the year 2014-15 onwards.”

20. APEDA gave financial assistance of ₹ 1.79 crore to Spice Board for building a cold storage facility. In this backdrop, on being asked ‘*Has the Spices Board refunded the remaining amount with interest?*’

“ APEDA has received the amount of ₹ 3.84 crore from Spice Board.

Considering the fact that Spices Board constructed cold storage with the capacity of 374 MTs only, which is 10% of the planned project, APEDA has requested Spices Board vide letter dated 18/07/2018 to refund the entire amount of Rs. 578.96 lakhs released by APEDA along with 10% interest per annum, as per

clause 7 of the letter dated 29th September 2010 issued from DOC, State cell, regarding setting up of Spices park at Guna, Madhya Pradesh.”

21. Apparently, APEDA released the second installment by ignoring the Spices Board Utilization Certificate wherein it was mentioned that the earlier grant has been utilized for the purpose of establishment of warehouse/ cold storage. In this background, on being asked to comment, the MoCI replied as under:

“The Spices Board submitted the following UC:

“... a sum of ₹ 273.08 lakhs has been utilized for the purpose of establishment of **warehouses/cold storage for which it was sanctioned...**”

APEDA has not ignored the UC given by Spices Board as it clearly indicated in the UC that the **funds were utilized for which it was sanctioned**. Hence, the 2nd installment was released by APEDA.” ”

22. On being asked ‘*What is the monitoring system of APEDA for such projects and What are the details of monitoring done in this particular case?*’, the MoCI replied as under:-

“The project proposals are examined by the Technical Committee and recommended for APEDA Authority if they are found viable.

On approval of the project by the Authority an In-Principle Approval letter (IPA) is issued and subsequently, MoU is signed with the State agency. MoU includes payment terms, clauses regarding timeframe for completion of the project, penalty for delay in implementation and interest clauses, upkeeping of assets so generated, force majeure etc.

The advance instalment of Grant-in-aid is released against Bank Guarantee (BG) of equal amount which remains valid till the completion of the project. The Bank Guarantee is invoked in certain cases when the agency fails to comply with the terms of MoU.

The subsequent instalments are released after receipt of Utilization Certificate and running bills/invoices against the advance released by APEDA and satisfactory report of physical verification conducted by APEDA.

Regular follow-ups with the agencies are made through letters, emails and telephonic communication and get the status of the project.

Meetings are organized with State agencies and physical verification is organized through the field offices for seeking updated status. The projects are also closely monitored by Regional Offices of APEDA by regular contacts and meetings. Efforts are made to complete the project at the earliest possible time however, the project got delayed due to various unforeseen circumstances encountered with the state agencies during implementation phase.

In general, half yearly review meetings are conducted to monitor the progress of various common infrastructure projects assisted by APEDA at the level of Chairman. Senior Officials of the State agencies are called for updating the status of the projects and give reasons for delays in the projects, if any, and likely timeframe for the completion of the projects.

Further, in case of inordinate delay / slow progress of the project letters from Chairman APEDA are also sent to the HOD of State agency or Chief Secretary of concerned state for their intervention for speedy completion of the projects.

23. When sought the *details of reporting and reviewing system of ASIDE Scheme*, the MoCI furnished the following information:-

“As per scheme guidelines of ASIDE, each State/UT/Agency/Central Agency was required to upload a quarterly report in the prescribed format. This report was used to review the progress of utilization of the funds released, and also the basis for further release of funds by the Ministry. The annual utilization of funds was to be submitted on Form GFR 19.

The Empowered Committee would periodically review the progress of the scheme and take steps to ensure achievements of the objectives of the Scheme.”

VII. ASIDE Guidelines and TIES

24. The ASIDE Guidelines (12th FYP (2012-17) Para 13 stipulates for System of ‘Monitoring and Review’ with provisions for submission of a quarterly report

through website of DoC, review of the progress of utilization of funds released as also the basis for further release of funds by the Ministry, annual utilization of funds to be submitted on Form GFR 19, Empowered Committee (EC) to periodically review the progress of the Scheme, steps taken to ensure achievements of the objectives of the Scheme and appointment of a Nodal Officer/Agency by Central Government for review/inspection under the Scheme. Similarly, Para 14 on 'Evaluation' has provision of Annual appraisal of all the ongoing projects at the end of the year by an independent agency.

25. The Ministry of Commerce and Industry (Department of Commerce) has notified vide The Gazette of India dated 27 March, 2017 that the approval of Central Government for the scheme titled Trade Infrastructure (TIES) for 3 years from 2017-18 to 2019-20.

PART II

OBSERVATIONS AND RECOMMENDATIONS

INTRODUCTION

The Public Accounts Committee (2018-19) examined Para No. 7.1 on “Ineffective monitoring by APEDA” of Report No.12 of 2017 of C&AG relating to the Ministry of Commerce and Industry (MoCI)- Department of Commerce (DoC). The subject under examination broadly deals with implementation of a project under ASIDE (Assistance to States for Development of Export Infrastructure and Allied Activities) Scheme of the Ministry of Commerce and Industry (MoCI) by APEDA (Agriculture and Processed Food Products Export Development Authority) through the Spices Board (SB).

MoCI approved a proposal (August 2010) submitted by SB for setting up of Spices Park in Guna, Madhya Pradesh under the ASIDE Scheme. In pursuance to this, MoCI issued an order (May, 2011) under which APEDA was assigned to contribute ₹6.12 crore (₹3.06 crore in two phases) towards a project for construction of cold storage of 3000 MT capacity. The project was stipulated to be completed by 31 March, 2013. Accordingly, MoU (January, 2012) was executed between APEDA and SB. In compliance with the directions of MoCI, APEDA released total amount of ₹5.79 crore to SB (1st instalment of ₹3.06 crore in Feb, 2012 and 2nd instalment of ₹2.73 crore in March, 2013). SB informed (July, 2016) APEDA that a cold storage of 374 MT capacity has been created. Moreover, APEDA sustained a loss of ₹ 1.77 crore due to non-inclusion of a penal clause in the MoU with SB for levying interest @ 10 per cent per annum on the unutilized grant, even though the excess amount was refunded by the Spices Board except the interest after much follow ups. APEDA failed to include the penal clause in the MoU with SB inspite of the fact that MoCI’s order for release of grant to it (Feb. 2012 and Jan. 2013) clearly stated at a clause (XVII) that ‘in the event of APEDA failing to comply with terms and conditions of the sanction, it shall be

liable to refund the whole or part of the grant with 10 percent interest per annum thereon’.

The Committee’s examination of the subject and their observations emanating from of the issues relating to three main stakeholders (APEDA, SB and MoCI) with issue-wise recommendations are detailed in the succeeding paragraphs.

1. Non-inclusion of important clauses in MoU:

The Committee take note of the omissions in the MoU on the part of APEDA viz., failure to include provisions for periodical follow-up of the project, penal clause for ensuring timely completion of the project and levying interest on unutilized grant. The Committee observe that failure to include these provisions in MoU actually led to diversion of funds, non-completion of project and financial loss to APEDA.

The Committee note that as per the terms of payment in the MoU, out of the total assistance of ₹6.12 crore, APEDA released (February, 2012) an advance amount of ₹3.06 crore for the FY 2011-12. For the remaining grant of ₹3.06 crore for the FY 2012-13, Spices Board (SB) was required to submit running bills along with UC (Utilisation Certificate) to APEDA. The SB furnished the UC and running bills for an amount of ₹273.08 lakh in March, 2013 mentioning that the fund had been utilized for the purpose of establishment of warehouse/cold storage for which it was sanctioned. Based on this, APEDA released the 2nd instalment on 31 March, 2013. The Committee further note that (i) During physical verification of the project, APEDA came to know (August, 2013) that no cold storages were established by Spices Board and instead warehouses were built; (ii) MoCI directed APEDA to include a penal clause in the contract so that the project is completed within the time frame. However, APEDA failed to include the same in the MoU which resulted in APEDA being unable to recover the penal interest of ₹87 lakh from SB; and (iii) MoCI’s order for release of grant for creation of capital assets clearly stated that ‘in the event of APEDA failing to comply with terms and

conditions of the sanction, it shall be liable to refund the whole or part of the grant with interest @ 10 % per annum thereon'. APEDA, however, did not include an identical clause in the MoU signed with SB and sustained a loss of ₹1.77 crore.

The Committee are shocked to note the non-serious attitude of APEDA in releasing second instalment of ₹ 2.73 crore in March 2013 to SB without physically verifying that whether the intended purpose i.e. construction of cold storage of 3000 MT had been undertaken or not. They are further dismayed to note that inspite of clear directions from the MoCI, APEDA failed to incorporate penal provisions in the MoU with SB resulting in non-payment of penal interest @ 10% by SB for the balance unutilized amount of ₹ 4.99 crore. The Committee desire that strict disciplinary action be taken against the officers responsible for the above lapses.

2. Absence of monitoring mechanism:

The Committee note that APEDA released second instalment to SB in contravention of the provisions of clause 4 of the MoU which stipulated that the funds or facility shall not be diverted or utilized for the purpose other than for which it was sanctioned. The Committee are of the opinion that APEDA should have been careful in scrutiny of UC and more proactive in the way of monitoring the utilization of the funds by designating an officer to oversee the execution of the project. The Committee are also of the view that absence of provisions for submission of periodical progress report by SB in the MoU gave them a free hand to utilize the funds at its disposal as per its whims and fancies. Although APEDA made repeated communications to the SB for submission of periodical progress reports, it proved futile. The Committee are further appalled to note the casual response of APEDA that though the MoU between APEDA and SB did not specifically contain any clause for physical inspection, as per prevailing practice APEDA conducted physical verification. The Committee are disappointed to note that ASIDE Scheme did not provide for physical inspection of the project before releasing further instalment. The Committee while noting that ASIDE Scheme provide for annual appraisal by an independent agency desire to be apprised of

the details of yearly appraisals conducted by the independent agency in respect of the project under ASIDE scheme since its inception. The Committee also desire MoCI to scrutinize whether ASIDE guidelines were followed in execution of all the projects.

3. Recovery of unutilized funds with penal interest @10 percent:

The Committee note that in compliance with the directions of MoCI, APEDA approved in its 71st meeting held on 24.06.2011, financial assistance of ₹6.12 crore to SB for setting up of cold storage of 3000 MT. For execution of the project, APEDA released total amount of ₹5.79 crore to SB. Subsequently, SB informed APEDA (July, 2016) that a cold storage of 374 MT capacity, instead of the mandated 3000 MT had been set up. Considering pro-rata cost of the storage capacity, so created, as ₹0.80 crore, APEDA requested SB to refund the balance amount of ₹4.99 crore. However, SB refunded (November, 2016) only ₹3.84 crore to APEDA. APEDA was unable to recover penalty of ₹0.87 crore from SB and also sustained a loss of ₹1.77 crore due to non-inclusion of a clause in the MoU regarding levying of interest @10% per annum on the unutilized grant refunded by SB. The Committee note with concern that APEDA overlooked the clear directions of MoCI on insertion of penal and interest clauses and therefore, suffered financial loss. Though APEDA had asked (18 July, 2018) SB to refund the entire amount of ₹578.96 lakh alongwith 10% interest per annum, it is clear that APEDA acted only after being pointed out by the Committee. The Committee, therefore, desire that APEDA should recover the entire amount with 10% interest per annum for the delayed period and apprise them within two months of the presentation of this report.

4. Incorrect utilization of funds/Deviation of project:

The Committee find that after release of first instalment of ₹305.88 lakh, APEDA wrote several letters to SB and other concerned authorities in Madhya Pradesh for speedy implementation of the project. APEDA released the 2nd

instalment of ₹273.08 lakhs (on 31 March 2013) on receipt of UC and running bills from SB mentioning that the fund had been utilized for the purpose of establishment of warehouses/cold storage for which it was sanctioned. However, during the physical verification conducted by APEDA (August 2013) it was found that no cold storages were established by SB and instead warehouses were built. APEDA sought clarification from SB on this deviation and also asked SB to create the infrastructure as per MoU. The SB (May 2016) informed APEDA that they had only created a cold storage with a capacity of 374 MT instead of 3000 MT for an expenditure of ₹179.60 lakh. The Committee are appalled to note that SB not only diverted the funds for creation of warehouses but also kept APEDA/MoCI in the dark by constructing warehouses instead of cold storages. The Committee strongly condemn the arbitrary attitude of SB for violating the provisions of MoU, furnishing incorrect UC (March, 2013) and not responding to repeated communications of APEDA. It was only after much persuasion SB was able to create a cold storage of just 374 MT capacity. It was nothing but a mere cover-up of the issue, after being pointed out by C&AG in September, 2014. The creation of cold storage of just one-tenth of the intended capacity would definitely not serve the desired purpose as it would fail to meet the storage requirements of the local farmers. The Committee note that SB failed to accede to the request of APEDA (18 July 2018) seeking refund of the entire amount of ₹578.96 lakhs along with 10% interest per annum. The Committee, therefore, are of the view that MoCI should direct SB to furnish clear reasons for violating the provisions of MoU with APEDA and fix responsibility for diversion of funds, wrong submission of UC, delayed execution of project with creation of truncated capacity of cold storage and for full refund sought by APEDA.

5. Failure to monitor the project at Spices Park, Guna:

The Committee find that despite the MoU between APEDA and SB to set up cold storage in Spices Park, Guna, MP, SB failed to create the desired cold storage capacity of 3000 MT, diverted the funds to construct warehouses instead of cold storages and caused loss to the Government exchequer. The Committee

are of the opinion that when SB deviated from MoU and constructed warehouses on pretext of stakeholders interests, it should have sought clear directions from the MoCI and kept APEDA informed about the same. The fact that after being flagged by C&AG (September, 2014), ADEPA had to seek intervention of MoCI (DoC) to direct the SB for implementation of the projects as per MoU speaks volumes about the whimsical attitude of MoCI in monitoring the project. Further, the inaction of Monitoring Committee (MC) comprising the representatives of SB, APEDA and other stakeholders is deplorable. The Committee are astonished to note the reply of the Ministry that the role of MC was only to oversee the efficient functioning of the facility and play advisory role once the facility was set up. They are unhappy to note that the MoCI chose to be a mute spectator as the Government nominee on APEDA/SB Boards did not bring to the notice of MoCI about the diversion of funds/delays in the project. Further, the Committee do not agree to the view of MoCI that the loss computed by C&AG is only a 'notional loss'. Notably, the farmers who would have been the actual beneficiary, had the project been completed as intended, are now deprived of the facility because of the casual approach of agencies involved. The Committee are of the considered opinion that misuse, diversion or non-utilisation of public money should be viewed seriously and financial misappropriation cannot be hidden under the pretext of a mere 'notional loss'. The admission of MoCI for lack of oversight in monitoring the project, is enough for it to act swiftly and take exemplary disciplinary action against officers responsible in Ministry as well as APEDA and SB, for failure to protect the taxpayers money.

6. Implementation of Assistance to States for Development of Export Infrastructure and Allied Activities (ASIDE) Scheme:

The Committee note that the Government of India launched ASIDE Scheme in March, 2002 with an objective to involve the States in the growth of export by providing incentive-linked assistance to the State Governments and to create appropriate infrastructure for the development and growth of exports. In line with the objective of ASIDE, MoCI sanctioned a project for setting up of Spices Park, Guna, Madhya Pradesh. The Committee note from Para 13 of ASIDE Guidelines

(12th FYP (2012-17)) on 'Monitoring and Review' that though an in-built mechanism existed for the projects executed under ASIDE, the MoCI failed to bring the agencies on board for following the guidelines and successful implementation of project. The Committee observe that, in the instant case, financing agency was unaware of the delay, diversion of fund, non-utilisation of money for the intended purpose. The Committee are of the view that the Ministry should play the pivotal role by strengthening the monitoring mechanism wherein delay/diversion/cancellation of the sanctioned projects under the Scheme should be automatically taken-up for review by the Empowered Committee (EC) headed by Commerce Secretary. As Audit is only a test check, the Committee desire that MoCI review all projects under the Scheme and evaluate overall performance of the same. The Committee further understand that as a successor to ASIDE Scheme, MoCI has launched TIES (Trade Infrastructure for Export Scheme) for three years from 2017-18 to 2019-20. They, therefore, desire the Ministry to fine tune the present Scheme by putting robust monitoring and review mechanism.

NEW DELHI;
13 December, 2018
22 Agrahayana, 1940 (Saka)

MALLIKARJUN KHARGE
CHAIRPERSON
PUBLIC ACCOUNTS COMMITTEE
