



FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2016-2019)**

FIFTY SEVENTH REPORT
(Presented on 24th January, 2018)

**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2018

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2016-2019)**

FIFTY SEVENTH REPORT

On

**The Action Taken by Government on the recommendations contained in the
Hundredth Report of the Committee on Public Undertakings (2014-2016)
relating to Kerala Transport Development Finance Corporation Ltd.
based on the Report of the Comptroller and Auditor General of
India for the year ended 31st March, 2010,
2011 & 2012 (Commercial)**

CONTENTS

	<i>Page</i>
Composition of the Committee ..	v
Introduction ..	vii
Report ..	1
Chapter I: Replies furnished by Government on the recommendations of the Committee which have been accepted by the Committee without remarks ..	2-7
Chapter II: Replies furnished by Government on the recommendations of the Committee which have been accepted by the Committee with remarks ..	8-19

COMMITTEE ON PUBLIC UNDERTAKINGS (2016-2019)

COMPOSITION

Chairman:

Shri C. Divakaran

Members:

Shri T. A. Ahammed Kabeer

Shri K. B. Ganesh Kumar

Shri C. Krishnan

Shri S. Rajendran

Shri Thiruvanchoor Radhakrishnan

Shri P.T.A. Rahim

Shri Raju Abraham

Shri Sunny Joseph

Shri C. F. Thomas

Shri P. Unni.

Legislature Secretariat :

Shri V. K. Babu Prakash, Secretary

Shri Mathewkutty. G., Joint Secretary

Shri P. B. Suresh Kumar, Deputy Secretary

Smt. Deepa.V., Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2016-2019) having been authorised by the Committee to present the Report on their behalf, present this fifty seventh Report on the Action Taken by Government on the Recommendations contained in the 100th Report of the Committee on Public Undertakings (2014-2016) relating to Kerala Transport Development Finance Corporation Ltd., based on the Report of the Comptroller and Auditor General of India for the year ended 31 March, 2010, 2011 & 2012 (Commercial).

The Statement of Action Taken by the Government included in this Report was considered by the Committee constituted for the year (2016-2019) in its meeting held on 30-11-2016.

This Report, incorporating the recommendations of the Committee and the replies furnished by the Government was considered and approved by the Committee (2016-2019) at its meeting held on 22-8-2017 with remarks.

The Committee places on record its appreciation for the assistance rendered to it by the Accountant General (Audit), Kerala during the examination of the Action Taken Statements included in this Report.

Thiruvananthapuram,
22nd August, 2017.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

REPORT

This Report deals with the Action Taken by Government on the recommendations contained in the hundredth Report of the Committee on Public Undertakings (2014-2016) relating to Kerala Transport Development Finance Corporation Ltd. based on the report of the Comptroller and Auditor General of India for the year ended 31st March 2010, 2011 & 2012(Commercial).

The hundredth Report of the Committee on Public undertakings (2014-2016) was presented to the House on 3rd December 2015. The report contained 5 recommendations in Para Nos. 4, 12, 13, 14 & 15 of which the Government furnished replies to all of them. The Committee accepted the replies to the recommendations in Para Nos. 4, 12, 14 & 15 without remarks. The recommendations of the Committee and their corresponding replies from the Government form Chapter I of the Report.

The Committee accepted the reply to the recommendation in Para No.13 with remarks. The recommendation of the Committee, its reply from Government and remarks of the Committee form Chapter II of the Report.

CHAPTER I

REPLIES FURNISHED BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE WHICH HAS BEEN ACCEPTED BY THE COMMITTEE WITHOUT REMARKS

Sl. No.	Para No.	Department Concerned	Conclusions/Recommendations	Action Taken by the Government
1	2	3	4	5
1	4	Transport	The Committee is dissatisfied over the system of accounting and monitoring prevailed in the Corporation and reiterates its earlier recommendation that the income tax should be assessed by working out the approximate income based on income of previous 11.5 months. The Committee directs that such methodology should be strictly followed in future so as to minimise the instances of excess payment and also to avoid the payment of penal interests on income tax.	The methodology recommended by the Committee for the assessment of income tax has been noted by KTDFC for future guidance.

2	12	Transport	<p>The Committee is surprised to note that Corporation had disbursed huge amount of loans for construction purposes even in the absence of codified guidelines for Construction Loans. The Committee remarks that the lack of a comprehensive set of policies for the sanctioning of high value loans contributed to the deficiencies in disbursement and recovery of loans. The Committee expresses its grave concern over the fact that the Corporation did not take any measures to frame separate rules for issuing Construction/Project loans before introducing such loans. Hence the Committee recommends to formulate secure mechanism and to ensure that project/constructions loans shall be sanctioned only to genuine and credible applicants.</p>	<p>KTDFC had earlier entrusted its Internal Auditor viz. M/s Varma & Varma Chartered Accountants to frame a new comprehensive Set of terms and conditions for the sanctioning and disbursal of Construction/Project Loans. KTDFC is committed to formulate a foolproof system to ensure that Project/Construction loans will be sanctioned only to genuine and trustworthy applicants. Company has already formed a Loan Committee in 2011. Later, inorder to further strengthening the system, two separate Committees were formed in 2015 for the speedy processing of applications and issues, as detailed below:</p> <p>i. Loan Sanctioning Committee</p> <p><u>Present Members:</u></p> <ul style="list-style-type: none"> (a) Head Consultant (F&A) (b) Chief Manager (Finance) (c) Company Secretary (d) Manager (FM & L) (e) Manager (L&R) (f) Assistant Manager (Finance)
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The Committee also directs that due diligent care should be taken on processing and sanctioning high value loans.

Functions:

- (a) To verify and recommend for sanction loan applications of above ₹ 5 lakhs.
- (b) To examine and recommend the release of loan instalments in the case of major loans of above ₹ 5 lakhs, where amounts are to be disbursed in instalments.
- (c) To verify and recommend for sanction of all top up loan applications.

(ii) Loan Committee

Present Members:

- (a) Head Consultant (F&A)
- (b) Chief Manager (Finance)
- (c) Company Secretary
- (d) Principal Project Consultant
- (e) Manager (FM & L)
- (f) Manager (L&R)

				<p>(g) Branch Manager, Thiruvananthapuram Branch of the Corporation.</p> <p>(h) Assistant Manager (Finance)</p> <p><u>Functions :</u></p> <p>(a) To inspect sites of major loanees before processing of applications for disbursement of instalments.</p> <p>(b) To examine and recommend on any matters relating to sanctioned loans including recovery as and when referred to.</p> <p>The Status of all outstanding Project/Construction loans are being placed from time to time before the Board meetings for meticulous scrutiny and supervision. KTDFC is vigilant in taking effective and timely action against defaulters of Project/Construction loans including filing of cases as per the provisions of the Negotiable Instruments Act, 1881 against the dishonour of EMI cheques and Revenue Recovery actions.</p>
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				<p>It may be noted that, in the meantime, the 125th meeting of the Board of Directors of KTDFC held on 26-6-2013 vide Agenda Item No. 29/125 has decided not to consider/sanction any new construction loans for the time being. KTDFC has not sanctioned any new Construction/Project loans from 2012 onwards. Once it is decided by the Board to re-launch the Construction/Project Loan Scheme, the proposed new comprehensive set of terms and conditions for the sanctioning and disbursement of Construction/Project Loans will be finalised and published before processing fresh loan applications, as recommended by the Committee.</p> <p>Thus KTDFC has taken all steps to comply the recommendations of the Committee.</p>
3	14	Transport	The Committee observes that the mechanism for monitoring post disbursement activity was very	KTDFC is vigilant in taking effective and timely recovery action against defaulters of Project/Construction loans including filing of cases as per the provisions of the

			<p>pitable in the Corporation. The Committee is of the view that the overall functioning of the Corporation was not satisfactory with respect to remittances. In order to safeguard the financial interest of Corporation stringent actions are to be taken to ensure the prompt and timely recovery of loans.</p>	<p>Negotiable Instruments Act, 1881 against the dishonour of EMI cheques and Revenue Recovery actions. KTDFC is not processing/sanctioning any new Construction/Project loans from 2012 onwards. Once it is decided by the Board to relaunch the Construction/Project Loan Scheme, the proposed new comprehensive set of terms and conditions for the sanctioning and disbursement of Construction/Project Loans will be finalised and approved by the Board and published before processing fresh loan applications, wherein specific mechanism for monitoring of the post disbursement activity shall also be provided as recommended by the Committee.</p>
4	15	Transport	<p>The Committee recommends that the Corporation should be vigilant in pursuing action against the unlawful practices that had prevailed in the Corporation.</p>	

CHAPTER II

**REPLIES FURNISHED BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE
WHICH HAS BEEN ACCEPTED BY THE COMMITTEE WITH REMARKS**

Sl. No.	Para No.	Department Concerned	Conclusions/Recommendations	Action Taken by the Government
1	13	Transport	The Committee is dissatisfied with the contention of the witness regarding the release of No Objection Certificates to the loanee for selling the villas before the recovery of defaulted amount and points out that the Corporation could not achieve its ultimate objective through Revenue Recovery Proceedings if the corporation initiates Revenue Recovery proceedings and issues No Objection Certificate to the same defaulter concurrently for selling already constructed Villas.	It may be noted that KTDFC has not so far issued any new NOCs for the sale of Villas/flats in any Construction loans after initiating RR proceedings, including in Loan No. 01/CL/IT/CON/2010-11 availed by M/s Grandtech Builders and Developers Pvt. Ltd, except the replacement of five NOCs issued earlier before initiating RR proceedings. It is true that after sending RR requisition by KTDFC to the District Collector, Thiruvananthapuram in Loan No. 01/CL/IT/CON/2010-11 availed by M/s Grandtech Builders and Developers Pvt. Ltd., the Loanee filed and I.A.10626/2014 in WP(c) No. 12644/2013 on 5-8-2014 for keeping in abeyance recovery actions and for granting further time for payment of amounts. Thereafter the Hon'ble High Court, vide order dated

		<p>The Committee feels that whether there is any malafide intention on the part of the Corporation officials to initiate Recovery Proceedings against a defaulter. The Committee also finds that the Corporation had been unduly favouring the private builders by disbursing the initial and the subsequent instalments of loans against the declared objectives of the Corporation. The Committee further points out that there was mismanagement and hence the committee decided to recommend that stringent action should be taken against the officer who had played hard balls against the interest of the Company.</p>	<p>14-8-2014 in WP(c) No. 12644 & 13098 of 2013, again forwarded the matter to mediation. During mediation, the loanee, voluntarily proposed to remit ₹ 1 crore before the next Board Meeting of KTDFC and that an Interim Mediation Report was accordingly prepared by the mediator on the basis of the request of the Loanee. As per the said interim mediation report, the Loanee agreed to remit ₹ 1 Crore before the subsequent Board meeting and also requested to provide him an opportunity of hearing before the Board regarding the requests mentioned in the Interim Mediation Report. The subsequent Board meeting of KTDFC (136th meeting) was held on 29-1-2015. However the Loanee didn't remit the said ₹ 1 Crore, though the date of Board meeting of KTDFC was informed to him in advance. Instead, he submitted a post dated cheque dated 28-2-2015 for ₹ 1 Crore along with a representation dated 28-1-2015, requesting the NOCs, waiver of interest and penal interest, personal hearing, etc. The 136th meeting of the Board of Directors of KTDFC considered the matter and provided the Loanee</p>
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				<p>and opportunity of personal hearing before the Board, though the Loanee failed to remit ₹ 1 Crore before the Board meeting. After hearing, the Board disposed the matter vide Agenda Item No. 25/136 on merit. The decision taken by the Board is reproduced below:-</p> <p>'This item was taken up for consideration as a special case without agenda note, on the basis of the Interim Mediation Report dated 18-12-2014 in WP(c) No. 12644/2013 as well as on the basis of the request dated 28-1-2015 submitted by the Loanee. Sri Salim M. Kabeer (Managing Director of the Loanee Company) was heard in person. During hearing, he reiterated the claims mentioned in his request dated 28-1-2015. The Board then called for and examined in detail the entire loan files pertaining to Loan NO. 1/CL/IT/CON/2010-11. The Board also noted its earlier decisions taken in relation with the Loans availed by M/s Grandtech Builders & Developers Pvt. Ltd. The Board noted that the Company has rightly initiated the Revenue Recovery proceedings in the Loan on 4-7-2014 consequent to the breach by the Loanee</p>
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				<p>Company of terms of the mediation agreement as recorded in the Judgement dated 26-8-2013 in WP(c) No. 12644/2013 and that thereafter the Loanee Company remitted ₹ 2.10 crores voluntarily to KTDFC on 1-8-2014. The Board also noted the stand taken by the District Collector, Thiruvananthapuram that the said remittance can be considered only as a part payment. The Board also noted the serious laxity committed by the Loanee in the repayment of the loan, irrespective of the maximum flexibility offered by the Company for the voluntary repayment. The Board observed that the Company has given maximum opportunity to the loanee for prompt voluntary remittance of the loan by allowing reschedulement to a lower EMI, extension of repayment period, change of date of EMI, issuance of NOCs for the sale of Villas even when the loan was at default, entering into the mediation agreement with such special terms as a resort to support the loanee to make voluntary remittance, granting of maximum time period for repayment even after the breach of said mediation agreement, etc. Board also noted that the</p>
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				<p>Company has been following the practice of issuing NOCs for the sale of Villas/Flats in loans on the fulfilment of the two conditions viz. the amounts already remitted by the loanees towards EMIs shall be sufficient to cover the proportionate value of the Villa/Flat to be sold and that there should not be any default in the repayment of loan at the time of issue of such NOCs. The Board then noted that 16 NOCs for a total value of ₹ 19415268 were issued in this loan even after the breach of the mediation agreement as a resort to help the loanee to generate funds for the remittance of the balance amount. The Board noted that an amount of about ₹ 5.57crores is outstanding in this loan as on date (subject to the decision regarding the applicability of collection charges for the part payment made after initiating RR). Board then examined the Interim Mediation Report dated 18-12-2014 in detail. Detailed deliberations were held on the subject. Board then decided that no waiver of interest or over due interest or any other charge be allowed in the loan not only on the ground that there are no deserving grounds</p>
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			<p>for waiver of any amounts in the loan but also on the ground that there is no such scheme for waiver of any amounts in Construction/Project loans. So far as the request for issue of NOC is concerned, the Board noted that the loanee hasn't so far remitted ₹ 1 Crore as promised in the Interim Mediation Report but only submitted a post dated cheque for ₹ 1 Crore dated 28-2-2015. As such Board decided, as a special case, to issue NOCs for the sale of Villas for the value of the EMI amount remitted, if and only if the said ₹ 1 Crore was realised by the Company. The Board also decided that amounts @ 7.5% has to be reserved from every part payment including the above mentioned ₹ 1Crore till getting a final clarification regarding the RR collection charges.'</p> <p>It can be seen from the above decision that the Board allowed to issue further NOCs in the loan for the sale of Villas for the value of the EMI amount remitted, if the said ₹ 1 Crore was realised by the KTDFC. Similarly the Board also decided not to waive any amounts in the loan for the reasons elaborately</p>
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				<p>mentioned therein. But, the loanee has violated even its said modified promise of remitting ₹ 1 Crore on or before 28-2-2015. The loanee hasn't thereafter remitted ₹ 1 Crore so far. Since the loanee hasn't complied its promise, no new NOCs, as decided by the Board of Directors of KTDFC, were issued after initiating the RR proceedings on 4-7-2014. Now on the basis of the report of the COPU, it has been instructed to the standing counsel of KTDFC before the Hon'ble High Court, to produce the copy of the COPU Report before the Hon'ble High Court as well as to get all pending cases and IAs w.r.t the loans availed by M/s Grandtech Builders and Developers Pvt. Ltd. disposed on merit. The Suspicion raised by the Committee on malafide intention on the part of KTDFC officials to initiate Recovery proceedings against a defaulter, is also based on wrong assumption of facts. In fact, KTDFC has been giving maximum possible time period in Construction/project loans to the loanees for the voluntary remittance of the amounts at default, before initiating RR proceedings. No undue haste has so far</p>
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				<p>been exercised in initiating RR proceedings against any Construction/Project Loans. On the other hand, maximum time period has been granted for voluntary remittance of the defaulted amount in each and every Construction/Project loans before initiating RR proceedings. All of such loanees were given several intimation notices before initiating RR actions thereby directing them to clear the amount at default and further informing them that otherwise KTDFC would be constrained to initiate RR actions. KTDFC initiated RR actions only in those Construction/Project loans which fell as NPA and in which the loanees failed to make any satisfactory attempt to clear the default. Maximum time period was given to M/s Grandtech Builders and Developers Pvt. Ltd. also before initiating RR proceedings. It was after the violation by the loanee of the terms of payment mentioned in the mediation agreement as recorded in the Judgement dated 26-8-2013 in WP(c) No. 12644 of 2013, that too after giving more than 8 months time even after the violation of the mediation agreement and after sending</p>
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				<p>intimation letters in this regard, that KTDFC initiated RR action in the loan on 4-7-2014. Similarly KTDFC initiated RR proceedings in the second loan (Loan No. 05/CL/IT/CON/2010-11) availed by M/s Grandtech Builders and Developers Pvt. Ltd on 4-12-2012 after recalling the said loan, that too as per the decision of the Board of Directors of KTDFC in its 122nd meeting held on 7-9-2012 vide Agenda Item. No. 5/122, since there found non utilisation of funds by the loanee. Hence it can be found that there is no malafide intention on the part of the KTDFC officials in initiating recovery proceedings against a defaulter. KTDFC is trying its level best to recover the loans at default by taking recovery actions. If indefinite periods of time are granted to defaulting loanees, it will affect the financial interests of the Corporation.</p> <p>KTDFC hasn't unduly favoured any private builders by disbursing initial and subsequent instalments of loans against declared objectives of the Company. KTDFC is vigilant in taking recovery steps in the Construction/Project loans for recovering the whole</p>
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				<p>outstanding amount. Cheque cases u/s 142 r/w 138 of the Negotiable Instruments Act against the dishonour of EMI Cheques as well as Revenue Recovery actions are being taken in applicable cases. The status of all outstanding Project/Construction loans are being placed from time to time before the Board meetings for meticulous scrutiny and supervision.</p>
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Remarks:— The Committee directs that stringent action should be taken against the officers who engaged in huge misappropriation. The Committee further points out that the attitude of criticising the committee decisions and recommendation is a highly deplorable action.

Thiruvananthapuram,
22nd August, 2017.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

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