



THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2014-2016)**

SIXTIETH REPORT
(Presented on 11th December, 2014)

SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2014

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On

**Kerala Financial Corporation based on the Report of the Comptroller and Auditor
General of India for the years ended
31st March 2003 and 2009 (Commercial)**

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Shri P. S. Selvarajan, Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2014-16) having been authorised by the Committee to present the Report on their behalf, present this Sixtieth Report on Kerala Financial Corporation based on the Reports of the Comptroller and Auditor General of India for the years ended 31st March, 2003 & 2009 (Commercial) relating to the Government of Kerala.

The Reports of the Comptroller and Auditor General of India for the years ended on 31st March, 2003 & 2009 were laid on the Table of the House on 28-6-2004 and 25-3-2010 respectively. The consideration of the audit paragraphs included in this Report and the examination of the departmental witness in connection thereto was made by the Committee on Public Undertakings constituted for the years 2011-2014.

This Report was considered and approved by the Committee at the meeting held on 19-11-2014.

The Committee place on record their appreciation of the assistance rendered to them by the Accountant General (Audit), Kerala in the examination of the Audit Paragraphs included in this Report.

The Committee wish to express their thanks to the officials of the Finance Department of the Secretariat and Kerala Financial Corporation for placing before them the materials and information they wanted in connection with the examination of the subject. They also wish to thank in particular the Secretary to Government, Finance Department and the officials of Kerala Financial Corporation who appeared for evidence and assisted the Committee by placing their considered views before the Committee.

Thiruvananthapuram,
11th December, 2014.

K. N. A. KHADER,
Chairman,
Committee on Public Undertakings.

REPORT

KERALA FINANCIAL CORPORATION

AUDIT PARAGRAPH

The Corporation sanctioned (March 1993) a loan of ₹ 59 lakh to Star Refineries Pvt. Limited (SRP) for the expansion and diversification of their existing unit for refining rice bran oil, at a total cost of rupees one crore with a debt-equity ratio of 1:43:1. The loan was secured by way of an equitable mortgage in the form of first charge on two acres of land (original value ₹ 1.70 lakh) in the industrial development area in Parur Taluk together with the entire plant and machinery items to be installed and the personal guarantee on the company's directors.

As per the loan agreement, SRP was to fund from its own resources the balance amount in excess of the loan of ₹ 59 lakh sanctioned by the Corporation. However, disregarding this, the Corporation sanctioned three additional loans of ₹ 20 lakh, ₹ 90.50 lakh and ₹ 90 lakh each in September 1994, March 1995 and November 1995 respectively and thereby taking the loan amount to ₹ 2.60 crore against the revised project cost of ₹ 4.04 crore. These additional loans were sanctioned without any additional/collateral security. SRP defaulted (October 1996) repayment of principal and payment of interest and the Corporation (February 1997) took over the unit under section 29 of the State Financial Corporations Act, 1951. On the ground that the sale of the unit will not fetch enough funds to settle the dues from SRP, the Corporation decided (July 1997) to initiate Revenue Recovery proceedings against the unit. But no follow-up action was made thereafter. However, the Corporation did not take any measures for ensuring the safety and security of the mortgaged assets of the unit taken over by it. Taking advantage of the inaction on the part of the Corporation, some of the directors of the loanee unit unauthorisedly dismantled and sold (January 2002) the plant and machinery worth ₹ 1.89 crore. The Corporation could collect only ₹ 4.72 lakh through the sale of the residual items of machinery/equipment left in the premises. As at the end of May 2003, a sum of ₹ 9.20 crore (principal: ₹ 2.32 crore plus interest ₹ 6.88 crore) was pending realisation from the loanee against which

the Corporation had the security of only two acres of land worth ₹ 1.70 lakh and the directors' personal guarantee.

Thus, the failure on the part of the Corporation to insist on adequate collateral/additional security and to safeguard the mortgaged assets taken over by it resulted in the non-recovery of dues amounting to ₹ 9.18 crore.

The Management stated (August 2003) that the Corporation in those days was not insisting on collateral security and the loan was sanctioned based on industrial assets and personal guarantee. It was also stated that intensive recovery action against directors of the Company was in progress and all possible measures were not exhausted. The reply is not acceptable since the Corporation sanctioned additional loan of ₹ 2.01 crore without insisting on any security and recovery action initiated in 1997 had not yielded any result so far (September 2003).

The matter was reported to Government in July 2003, their reply is awaited (September 2003).

[Audit paragraph 4.16 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2003.]

The notes furnished by Government on the Audit Paragraph is given in Appendix II.

1. When the Committee enquired about the disbursement of loan to M/s Star Refineries Private Limited by Kerala Financial Corporation, the witness explained that this case was an old case and was undergoing a vigilance enquiry. The General Manager of the company was suspended before his retirement and that his terminal benefits were yet to be released. A departmental action was also taken against a junior officer of the company. The witness also informed that in addition to the Vigilance case, KFC had also taken steps to initiate Revenue Recovery Action in this case.

2. When the Committee enquired whether any High Court Order existed in this case, it was informed that there was no such order and that an earlier order

issued by the High court was in favour of KFC.

3. The Committee was of the view that KFC had failed to give due importance to the issue. The witness informed that it was because the matter was taken up seriously that a vigilance enquiry was conducted and hence necessary action would be taken thereupon.

4. The Committee pointed out that there was a prevailing practice in KFC to appoint persons of their own choice as evaluators of land who fix fictitious value to lands pledged as collateral security and loans were sanctioned on its basis. The Committee enquired whether KFC had taken any corrective measures as precaution against this practice. The witness admitted the existence of above practice in KFC and added that no approved evaluators were appointed in this particular case. Earlier the evaluation was done by a team of Engineers in KFC. The witness explained that at present the land value was fixed by a panel of approved evaluators and by the District Collector.

5. In case of Buildings, Plant and Machineries the distress sale value would be very low when compared to the actual value. Hence at present the distress sale value was also being included at the time of evaluation. He added that KFC had opted to Revenue Recovery rather than recovery under Section 29. KFC had also submitted a proposal to Government for making all process through e-sale, since the entire process now was being carried out manually.

6. The Committee enquired whether the loan was sanctioned on the basis of panel system of valuation prevailing in KFC and that if there was any provision for Recovery. The witness replied that though the loan was sanctioned on the basis of Panel system, no provision was included for Recovery. The witness added that because of this reason a vigilance enquiry was being conducted in this case.

7. The Committee enquired whether the vigilance enquiry was demanded by KFC or the Government took it as '*Suo moto*'. The witness replied that it was KFC who approached the Government for the vigilance enquiry.

8. The Committee found that the reply furnished by the Government in this matter contained only the justification of the procedure followed by the Company. The Committee opined that the report should contain all the details about the

irregularities that KFC had found out and the disciplinary action initiated against the officials concerned. The Committee suggested that the reply should contain the proposals and suggestions regarding the fixing of responsibility against the delinquent officers, disciplinary action initiated against them and the ways to recover the amount from them. The witness assured that a detailed report in this matter would be submitted to the Committee.

9. The Committee pointed out that loan should be sanctioned on the basis of the value of the collateral security pledged. Any manipulation in fixing the value of collateral security at the initial stage would result in the repayment of loan, impossible. Hence the Committee suggested that Section 29 should be implemented. The Committee opined that the Company should ensure that all the norms were strictly adhered to at the time of disbursement of loan. The witness stated that a panel of approved evaluators would be appointed to scrutinize the same.

10. The Committee pointed out that the practice of sanctioning additional loan to its defaulters for making adjustments towards their default amount from the new loan sanctioned should be checked.

11. The Committee sought the reason why the Company opted to Revenue Recovery action instead of handling the case as per the KFC Act. The Committee found out the fact that the loanees had sold out the plant and machineries easily well before Revenue Recovery procedure was initiated against them, by KFC. The Committee criticized on the action of KFC that it had committed a serious lapse of 6 months delay in filing a complaint in the Police about this matter.

12. The Committee opined that a study should be conducted for solving such issues in future. The Committee expressed its dissatisfaction over the fact that Government reports furnished in this matter were incomplete and did not contain the details of vigilance enquiry.

13. The Committee opined that it would be more transparent if the taking over of land and its auctions under Section 29 were all done through internet. The witness explained that at present e-sale of take over land could be done only as per Section 29. The witness requested the Committee's favourable remarks in this

respect so that the Revenue Recovery actions could be done through e-sale. The Committee wanted to have a detailed report in this matter and KFC assured to do so.

14. While considering the Draft Report prepared based on the above observations, the Committee noticed that the department had not furnished the details which it had been assured during the witness examination and directed the Finance Department to submit a detailed report of the matters stated below before the finalisation of the Report:

- (i) Details of the action taken by the Corporation against the concerned officers, who sanctioned three additional loans to Star Refineries Private Limited, without insisting adequate collateral security and committed foul play with the firm to dismantle and sell the mortgaged assets.
- (ii) Details of the Vigilance enquiry initiated and the present position of the case.
- (iii) Details of the method followed by KFC to fix the value of assets pledged as collateral security and details of the officers deputed by the Corporation for valuation.
- (iv) Steps taken by the Corporation to avoid the recurrence of such events in future in the light of the audit observation.

15. As per the directions of the Committee the Finance Department had furnished the reply vide letter dated 23-10-2013. The reply received from Finance Department is given in Appendix III. The Committee expressed displeasure on the false reply furnished by the Corporation, that they have not even verified the actual facts and mentioned about another Company viz. M/s. Five Star Rubber Trading which is a different entity.

Conclusions/Recommendations

16. The Committee observes that sanctioning of 3 additional loans to Star Refineries Private Limited by KFC without insisting on adequate collateral security and its failure to safeguard the assets taken over resulted in the non-recovery of dues amounting to ₹ 9.18 crore. The Committee disagrees with the practice followed by KFC in sanctioning additional loans to its defaultees for making adjustments in

the original loan without insisting on adequate collateral security. The Committee further observes that KFC had failed to take adequate steps to ensure the safety of the assets taken over which in turn enabled the loanees to dismantle and sell the mortgaged assets. The Committee strongly condemns the laxity on the part of KFC in reporting the matter to the police only after a lapse of 6 months. The Committee expresses dissatisfaction over the fact that the report forwarded by the Government in the matter is incomplete and did not contain the details of Vigilance enquiry. The Committee wants to have a detailed report in this regard containing all aspects of the case.

17. The Committee opines that there will be more transparency in the dealings of KFC if auction procedures are done through internet. Before going in for e-sales the Committee wants to have a detailed report in this matter.

18. The Committee recommends that before sanctioning loans KFC should ensure that the value of the collateral security pledged is adequate to meet the realisation of the loan amount with interest accrued in case of default and that necessary precautions should diligently be taken to ensure the safety of the assets taken over under section 29 of the SFC Act, 1951.

AUDIT PARAGRAPH

The Corporation sanctioned (March 1996) a short term loan of ₹ 75 lakh to Sri M. Jose, Ernakulam for expansion of the business of supply of treated teak wood poles. The loan was disbursed (March and June 1996) in two instalments of ₹ 50 lakh and ₹ 25 lakh, and was repayable in six monthly instalments at interest rate of 22 per cent per annum, and penal interest of 2 per cent per month for default. As collateral security for the loan, the party deposited title deeds of 205 cents of land, comprising two properties measuring 72 and 133 cents respectively, which valued at ₹ 1.06 crore. The cost of purchase of the properties as per registration deed was ₹ 2.49 lakh only.

The Loanee repaid (May to July 1996) ₹ 32.27 lakh and defaulted since August 1996. The post-dated cheques given by the loanee were also dishonoured on presentation. However, the Corporation did not take any legal action.

Thereupon, the landed properties of the loanee were taken over (January 1997) under section 29 of the State Financial Corporations Act, 1951 for default in payment of dues. As against valuation of land at ₹ 1.06 crore at the time of sanction of loan, the upset value fixed for sale in July 1998 was only ₹ 62.05 lakh which indicated gross overvaluation. It was noticed in audit that for valuation of land, Corporation did not have a system of ascertaining the transaction value of land from the Sub Registrar and the valuation was being done arbitrarily on the basis of local enquiry, which did not have any authenticity.

On sale of 72 cents of the land originally valued at ₹ 39.60 lakh offered as collateral security, the Corporation could realise (2002) ₹ 28.80 lakh only and the amount was adjusted against the loan account leaving a balance of ₹ 8.11 crore (Principal : ₹ 0.46 crore, interest : ₹ 3.69 crore and penal interest ₹ 3.96 crore) as on 30 June 2003. The Corporation could not sell (July 2003) the remaining portion of collateral security of 133 cents of land having an upset value of ₹ 33.26 lakh.

Management stated (September 2003) that as per security norms at the time of sanction the collateral security offered was worth ₹ 1.06 crore against ₹ 75 lakh required and the value of land decreased subsequently due to market recession. It was also stated that the Corporation took a policy decision in March 2003 to allow the loanee reduction in penal interest from 24 to 2 per cent per annum and on that basis balance as on 1st September 2003 was ₹ 2 crore (Principal : ₹ 0.46 crore and interest : ₹ 1.54 crore). However, the fact remained that the Corporation valued the land offered as collateral security at ₹ 1.06 crore as against the original cost of purchase of ₹ 2.49 lakh and the balance land available as collateral security was marshy land with no access and hence could not be sold indicating that the dues from the loanee were irrecoverable.

Thus, sanction of the short term loan without adequate collateral security and gross overvaluation of security offered, resulted in non-recovery of ₹ 8.11 crore. Revenue Recovery action initiated (September 1997) for attaching the personal properties of the loanee had not shown any progress (July 2003).

The matter was reported to Government in August 2003, their reply is awaited (September 2003).

[Audit paragraph 4.17 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2003.]

The notes furnished by Government on the Audit Paragraph is given in Appendix II

19. The witness informed the Committee that in this case loan was sanctioned for business expansion and the loanee had already repaid the amount exceeding the Principal amount. The interest charged at that time was 24% comprising 22% normal interest and 2% penal interest.

20. The Committee pointed out that charging of 22% interest rate was too high to run any business and; no business could be done profitably at this rate of interest.

21. The Committee called the attention of the witness about the newly introduced system in KSIDC with regard to the rate of interest charging on loans to new entrepreneurs. It was based on the concept that the rate of profit accrued to newly started business could be low for the first two years and hence low rate of interest fixed for these two years. For the subsequent years it would increase in tandem with increase in the rate of profit of the business. The Committee, therefore opined that if such a system of charging interest be introduced in KFC, it would be helpful to new entrepreneurs.

22. The witness informed that as per the new circular issued by RBI, KFC loans were not classified under priority sector and that a request had been submitted before the RBI to review the same. The witness requested the Committee to take this matter as a major issue. The Committee opined that it would take up the case as a serious one and demanded a copy of the circular to be furnished urgently.

23. When enquired whether there was any vigilance enquiry in the second case, the witness replied in the affirmative. He added that One Time Settlement had been made liberal in KFC. When the Committee opined that Adalats should be conducted with the approval of Government for the repayment of pending arrears, the witness informed that Adalats were being conducted for this purpose.

24. To another question the witness informed the Committee that both the cases were different. In the first case additional loans were sanctioned twice even

though the default was made in the remittance of principal amount. While in the second case only ₹ 75 lakh was sanctioned and the party had repaid ₹ 1,33,86,000 but the entire amount was adjusted against interest.

25. The Committee invited the attention of the witness about Supreme Court directions that both the rate of interest and penal interest charged should not exceed the principal amount sanctioned. To this the witness informed that if these directions were to be implemented it would create many difficulties in settling the long-term advances given to loanees.

26. The Committee found that in the report furnished by the Government the details of amount repaid was shown as ₹ 32.27 lakh while the actual amount repaid was ₹ 133 lakh and also the details of bounced cheque were not mentioned in the report. The Committee wanted to have a revised report including all the relevant details. The witness assured to do so.

27. The Audit pointed out that while sanctioning the loan, the Company had to ensure the repayment capacity of the loanees. The Committee opined that the Corporation had failed to conduct a detailed study about the profitability of the business venture and repayment capacity of the loanee, before sanctioning the loan. Therefore the Committee directed to conduct a detailed study and furnish a detailed and updated report in this regard.

Conclusions/Recommendations

28. The Committee is astonished to find that despite the loanee had repaid an amount exceeding the principal amount a lion's share of the debt still remained outstanding as his liability. The Committee opines that KFC charges exorbitant rate as interest making it virtually impossible for the loanee to repay the loan even when he commits a single default in the repayment. The Committee recommends that KFC should modify the pattern of interest rate in line with the rate of interest newly introduced in KSIDC.

29. The Committee desires to be furnished with a copy of the new circular issued by RBI, treating KFC loans under non-priority sector.

30. The Committee remarks that while sanctioning the loan, the Corporation has to ensure the repayment capacity of loanees. The Corporation

has failed to conduct a detailed study about the profitability of the business venture and to make a real assessment on the repayment capacity of the loanee, before sanctioning the loan. Therefore, the Committee directs the Corporation to conduct a detailed study and furnish a detailed and updated report in this regard.

AUDIT PARAGRAPH

As per Section 234 B and C of the Income Tax (IT) Act, 1961, a Corporate assessee has to pay 90 per cent of the tax in advance when the amount of tax payable exceeds five thousand rupees per annum. The advance tax is payable in four quarterly instalments between the months of June and March of the corresponding financial year. Failure to pay at least 90 per cent of the tax in advance by March attracts interest at the rate of 12 per cent per annum (section 234 B *ibid*). Similarly for failure to pay instalments of advance tax by specified dates, interest is chargeable at the rate of one per cent per month (Section 234 C *ibid*).

Kerala Financial Corporation (KFC), a Statutory Corporation established under the State Financial Corporation Act, 1951 was liable to pay advance tax on its assessed income under the provisions (Section 8) of the Act *ibid*. KFC had an assessed income of ₹ 6.97 crore and ₹ 8.08 crore respectively during the financial years 2005-06 and 2006-07. Advance tax payable on the assessed income was ₹ 2.11 crore and ₹ 2.45 crore respectively against which the advance tax actually paid (March 2006/December 2006/March 2007) by the Corporation was only ₹ 1.57 crore (2005-06) and ₹ 0.59 crore (2006-07). The Corporation had also defaulted in payment of quarterly instalments. As a result of short payment of advance tax and failure to pay instalments of advance tax, the IT Authorities imposed penal interest of ₹ 39.97 lakh (₹ 14.42 lakh for 2005-06 and ₹ 25.55 lakh for 2006-07) on the Corporation and the penal interest was paid in October 2007/2008.

Audit noticed that the Corporation had failed in remitting advance tax after correct assessment of the taxable income despite notices by the IT Department. The Corporation in this period also had sufficient cash balance to defray the advance income tax.

The failure of the Corporation in remitting the prescribed amount of advance income tax despite having sufficient cash surplus resulted in avoidable payment of interest of ₹ 26.97 lakh besides non-compliance with tax laws.

It is recommended that the Management should ensure payment of the advance tax on due dates as well as filing of the Income Tax Return in time to avoid unintended liabilities.

The matter was reported to Government/Management in May 2009; their reply was awaited (September 2009).

[Audit paragraph 4.23 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2009.]

The notes furnished by Government on the Audit Paragraph is given in Appendix II.

31. The Committee pointed out that the issue of non-remittance of advance tax is a matter of serious concern to KFC. The witness brought to the notice of the Committee that there was a reverse comment by the Accountant General regarding the excess payment of advance tax in some cases. The witness added that sometimes KFC would receive unforeseen amount through its Revenue Recovery proceedings resulting in the hike of income and that the estimation of advance tax on that basis could not be considered to be a correct one.

32. The Committee remarked that it is high time that the Government restructured the existing service system in KFC in a conducive manner to help the industrial growth in the State. The Committee observed that KFC was not acting like a supporting institution to the society since many cases of unfair incidence of suicides of loanees were increasingly reported. The loanees lost their precious lives because of their inability to clear the heavy burden of their debt owed to KFC. The Committee opined that KFC was charging exorbitant rate of interest on their loans and advances than that of any Financial Institutions in the State. Hence the Committee demanded that the existing system of the Institution should summarily be changed to meet the genuine financial needs of the society.

Conclusions/Recommendations

33. **The Committee observes that KFC is not acting like a supportive institution to the society since many cases of unfair incidence of suicides of loanees are increasingly reported. The Committee opines that the loanees had to face much difficulty in clearing the heavy burden of debt owed to KFC due to exorbitant rate of interest charged by KFC and views that KFC is charging exorbitant rate of interest on their loans compared to that of any financial institutions in the State. The Committee remarks that it is high time that the Government restructured the existing service system in KFC in an inclusive manner to the industrial growth of the state, and demands that the existing system of the Institution should summarily be changed to meet the genuine financial needs of the society.**

34. **The Committee is of the view that the pattern of interest rate followed by the Corporation needs drastic changes. Therefore the Committee recommends that the Government should issue specific guidelines to impose ceiling on interest rate and requisite steps should be taken to avoid penal interest in KFC and other parallel financial institutions.**

K. N. A. KHADER,
Chairman,

Committee on Public Undertakings.

Thiruvananthapuram,
11th December, 2014.

APPENDIX I

SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

<i>Sl. No.</i>	<i>Paragraph No.</i>	<i>Department concerned</i>	<i>Conclusions/Recommendations</i>
1	2	3	4
1	16	Finance	<p>The Committee observes that sanctioning of 3 additional loans to Star Refineries Private Limited by KFC without insisting on adequate collateral security and its failure to safeguard the assets taken over resulted in the non-recovery of dues amounting to ₹ 9.18 crore. The Committee disagrees with the practice followed by KFC in sanctioning additional loans to its defaultees for making adjustments in the original loan without insisting on adequate collateral security. The Committee further observes that KFC had failed to take adequate steps to ensure the safety of the assets taken over which in turn enabled the loanees to dismantle and sell the mortgaged assets. The Committee strongly condemns the laxity on the part of KFC in reporting the matter to the police only after a lapse of 6 months. The Committee expresses dissatisfaction over the fact that the report forwarded by the Government in the matter is incomplete and did not contain the details of Vigilance enquiry. The Committee wants to have a detailed report in this regard containing all aspects of the case.</p>

1	2	3	4
2	17	Finance	The Committee opines that there will be more transparency in the dealings of KFC if auction procedures are done through internet. Before going in for e-sales the Committee wants to have a detailed report in this matter.
3	18	”	The Committee recommends that before sanctioning loans KFC should ensure that the value of the collateral security pledged is adequate to meet the realisation of the loan amount with interest accrued in case of default and that necessary precautions should diligently be taken to ensure the safety of the assets taken over under section 29 of the SFC Act, 1951.
4	28	”	The Committee is astonished to find that despite the loanee had repaid an amount exceeding the principal amount a lion’s share of the debt still remained outstanding as his liability. The Committee opines that KFC charges exorbitant rate as interest making it virtually impossible for the loanee to repay the loan even when he commits a single default in the repayment. The Committee recommends that KFC should modify the pattern of interest rate in line with the rate of interest newly introduced in KSIDC.
5	29	”	The Committee desires to be furnished with a copy of the new circular issued by RBI, treating KFC loans under non-priority sector.

1	2	3	4
6	30	Finance	<p>The Committee remarks that while sanctioning the loan, the Corporation has to ensure the repayment capacity of loanees. The Corporation has failed to conduct a detailed study about the profitability of the business venture and to make a real assessment on the repayment capacity of the loanee, before sanctioning the loan. Therefore, the Committee directs the Corporation to conduct a detailed study and furnish a detailed and updated report in this regard.</p>
7	33	”	<p>The Committee observes that KFC is not acting like a supportive institution to the society since many cases of unfair incidence of suicides of loanees are increasingly reported. The Committee opines that the loanees had to face much difficulty in clearing the heavy burden of debt owed to KFC due to exorbitant rate of interest charged by KFC and views that KFC is charging exorbitant rate of interest on their loans compared to that of any financial institutions in the State. The Committee remarks that it is high time that the Government restructured the existing service system in KFC in an inclusive manner to the industrial growth of the state, and demands that the existing system of the Institution should summarily be changed to meet the genuine financial needs of the society.</p>

1	2	3	4
8	34	Finance	<p>The Committee is of the view that the pattern of interest rate followed by the Corporation needs drastic changes. Therefore the Committee recommends that the Government should issue specific guidelines to impose ceiling on interest rate and requisite steps should be taken to avoid penal interest in KFC and other parallel financial institutions.</p>

APPENDIX II

NOTES FURNISHED BY GOVERNMENT ON THE AUDIT PARAGRAPHS

<i>Sl. No.</i>	<i>Paragraph No.</i>	<i>Action Taken</i>
(1)	(2)	(3)
1	4.16 (2002-2003)	<p>Kerala Financial Corporation had sanctioned a term loan of ₹ 59 lakh on 20-3-1993 to M/s Star Refineries (P) Ltd., for the expansion and diversification of their existing unit at Development area, Edayar, Ernakulam. The factory was engaged in refining of Rice bran and Palm Oil. The total cost of the project was ₹ 100.40 lakh. The unit started production during June 1992.</p> <p>The promoter's contribution envisaged at the time of appraisal of the project was ₹ 41.40 lakh, whereas the company had invested ₹ 73.320 lakh up to February 1994.</p> <p>The Company approached the Corporation for additional loans for the expansion. Based on detailed appraisal, the Board sanctioned additional loan as under:</p> <p>Rs. 20.00 lakh on 6-9-1994 Rs.90.50 lakh on 29-3-1995 Rs.90.00 lakh on 27-11-1995</p> <p>Thus the total amount sanctioned to M/s Star Refineries amounted to ₹ 259.50 lakh. The entire amount was disbursed in instalments during the period from 5-6-1993 to 2-2-1996.</p>

(1)	(2)	(3)
		The Company properly utilised the finance for acquisition of plant and machinery. The investment in the project as assessed by the Corporation at the final stage of the implementation was as follows:
	Land	.. Rs. 0.70 lakh
	Building	.. Rs. 39.79 lakh
	Plant and Machinery	.. Rs. 386.14 lakh
	Total	.. Rs. 426.50 lakh
	Loan disbursed	.. Rs. 259.50 lakh
	Company's investments	.. Rs. 167.13 lakh (39.17%)
		The loanee were sanctioned on the security of industrial assets. The Company had created equitable mortgage of Industrial land in Sy. No. 67/2 (Part) & 89/1-4 along with the industrial assets. The promoters were financially sound and their personal guarantee was also taken in addition to industrial assets. This was an existing industrial unit and the Company had invested a sizable amount in this project. The Corporation in those days was not insisting on collateral security. Loan was sanctioned based on the personal assets and personal guarantee of Directors.
		The Company had remitted a total amount of ₹ 95.69 lakh since availing the loan. Unfortunately, the relaxation of the conditions for import of palm oil by Central Government affected the working and viability of this unit and they could not continue the remittance as in initial years. Since the Company's remittances were not sufficient to wipe off the demands towards Principal and Interest, the arrears went up and Corporation issued recovery notices. In view of the difficulty in sale of the unit for reasonable consideration

(1)

(2)

(3)

and considering the solvency of Directors, RR action was initiated against the Company as well as the Directors in July 1997. The Industrial unit was not under the custody of the Corporation but with the RR authorities. Meanwhile the MD of the Company filed an O.P. (No. 18148/97) before the Hon'ble High Court against the RR proceedings. Though the Corporation strongly opposed the case, the Hon'ble High Court vide order dated 17-10-1997 stayed Revenue Recovery action on condition that the petitioner should pay ₹ 1.5 lakh within two weeks and a further amount of ₹ 15 lakh within 6 weeks. The petitioner remitted ₹ 15 lakh on 5-11-1997 and ₹ 8 lakh on 18-12-1997.

Later, the Company made a reference to BIFR for getting the unit registered as sick under Sec 15 of Sick Industrial Companies (Special Provisions) Act, 1985. The reference was registered by BIFR as No. 244/99 vide their letter dated 17-8-1999. When a case under consideration by BIFR for extension of revival package, the financial institutions are supposed to keep coercive action in abeyance. However the Corporation did not receive any communication from BIFR.

The arrears in the loan account as on 1-7-2001 was ₹ 578.76 lakh. Though this was intimated by the Corporation to the Company, the Company failed to remit any amount.

On 7-9-2000, the Tahasildar, R R, North Parur, EKM intimated that they had initiated RR against the Company for Sales Tax arrears and electricity dues. Kerala Financial Corporation had also written to Tahsildar vide letter dated 10-10-2000, claiming their first charge over the assets of the Company as already intimated to them in 1993 itself. The Company filed an

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OP (No. 22262/1999) before the Hon'ble High Court to stay the recovery proceedings. KFC was also made a formal respondent as they have first charge over the assets of the Company. The Tahasildar Parur attached the entire assets of the Company on 23-12-2000. Later the Tahasildar informed that the RRD for Sales Tax arrears were returned.

On 11-4-2002 the Deputy Tahasildar (RR), KFC along with the Manager (T) reached the unit for attaching the industrial unit. It was then found that the entire plant and machinery were removed from the unit. This was done without knowledge or consent of the Corporation. A criminal complaint was lodged before the S.I. of Police, Binanipuram against the theft as 186/02 on 21-6-2002. The depreciated value of the plant and machinery items thus removed was assessed at ₹ 188.61 lakh.

Deputy Tahasildar (RR) attached the personal property situated at Ponnani Taluk of Malappuram District owned by one of the Directors and sold the property under the auction sale on 17-8-2002 and the sale proceeds of ₹ 6,98,250 received as such was credited in the loan account. The industrial unit with land was sold by Deputy Tahasildar (RR) for a sale consideration of ₹ 29.50 lakh on 25-9-2003. The scrap items of plant and machinery items worth ₹ 5.79 lakh were sold by Deputy Tahasildar for a sale consideration of ₹ 4.72 lakh in December 2002. Thus Deputy Tahasildar (RR) collected a total amount of ₹ 41.20 lakh at that instant.

Intensive recovery action under RR against all directors of the Company who are financially sound is in progress (May 2005). Corporation with all efforts is trying to recover the balance amount.

(1)	(2)	(3)
2	4.17 (2002-2003)	<p>Kerala Financial Corporation had disbursed ₹ 75 lakh as short-term loan to Sri M. J. Jose, Ernakulam and the entire principal was to be repaid in just 6 monthly instalments, @ ₹ 12.55 lakh per month. The rate of interest charged, right from the beginning, is 22% plus 24% (penal for default) and which is quarterly compounding. In the case of Short-term Loan, once the party defaulted an instalment of the principal and interest, he will lose control over the account and he can never regularise his account.</p> <p>Collateral security for Short-term Loan, as per the norm prevailed at the time of sanctioning the loan, was 100% of the loan amount. Accordingly, in this case, the collateral security required was only ₹ 75 lakh. But the actual value of the property was ₹ 106.11 lakh, which was, 141.48% of the loan disbursed. Hence the observation that there was failure on the part of the Corporation to insist for adequate collateral security is not correct.</p> <p>The Collateral Security land was valued in March 1996, when the real estate business was at its peak and the market value prevailed at that time was considered for fixing the land value. KFC cannot say, after a period of 8 years that the security offered was overvalued. It is a fact that nobody could foresee, at that time, that the real estate value would nose-dive in a couple of years.</p> <p>The real estate business was showing a declining trend from 1998 and the upset value of the land was taken during that period. The upset value was fixed in accordance with the trend in the real estate business prevailed at that time. When KFC started the sale of the</p>

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land, after settling the suits in the court, the value of the land touched rock bottom, as there were no buyers for lands in general.

Moreover, when properties are sold in auction by KFC and even State Government, the buyer discounts the value as he has to pay full stamp duty and registration charges for the entire value (unlike in the case of private transactions). This factor is also taken into accounts while fixing the upset value of the assets. However, even though there are such odds, KFC could manage to get 72.73% of the original value of the property (72 cents) sold in 2002.

Kerala Financial Corporation has reported that the collateral property of 133.026 cents of land in survey No. 679/1A, 1B and 680/1 in Thrikkakara North Village in Kanayannoor Taluk as advertised for sale on 22-12-2004. The highest offer received by tender and after negotiation is ₹ 55,300 per cent and the total value offered is ₹ 73.56 lakh as against the upset value of ₹ 66.51 lakh fixed by the Corporation. The Corporation has confirmed the sale of the property to Sri P. M. Abdul Rehman, 108, Pedikat Chamber, Paramara Road, Kochi-18, the tenderer, for a consideration of ₹ 73.56 lakh.

The party has remitted a total sum of ₹ 21.00 lakh so far.

Revenue Recovery action is also in force. Details of the the personal assets of the promoters are being collected from Ernakulam, Kottayam and Idukki Districts. One of the village officers in Ernakulam has reported that the promoters have no assets in that village. Reports from other village officers are expected.

(1)	(2)	(3)
3	4.23 (2008-2009)	<p>Kerala Financial Corporation is paying Advance Tax based on the assessments of income over the periods. But in all the years the remittances under One-Time Settlement amounts are received during the last week of March only. Also the Corporation is consolidating the branch Trial Balances on a monthly basis only. The last installment of Advance Tax is due on 15th of March; hence they are not able to pay the correct Advance Tax amounts on that date. It is also pointed out that arbitrary advancement would adversely affect the liquidity and profitability as the Corporation is getting refinancing from SIDBI and the amount available is offered to the Micro Small and Medium Enterprises according to demand and as per the terms fixed by SIDBI. Now for better evaluation, the Corporation will, complete the implementation of Core Financial Solutions and networking of Branches. This will enable it to keep track of income and to make timely payments promptly. The KFC has been directed to ensure payment of advance taxes on due dates as well as filing of Income Tax Return in time to avoid unintended liabilities.</p> <p>The Advance Tax for the Financial Year 2009-10 has already been paid for the first three quarters of 2009-10 (₹ 2,25,00,000). Advance Tax for the last quarter was not paid as the Advance Tax already paid may be sufficient.</p>

അനുബന്ധം III

കംപ്ലോളർ ആന്റ് ഓഡിറ്റർ ജനറൽ ഓഫ് ഇൻഡ്യയുടെ 2003 മാർച്ച് 31-ന് അവസാനിച്ച സാമ്പത്തികവർഷത്തെ ഓഡിറ്റ് റിപ്പോർട്ടിൽ ഉൾപ്പെടുത്തിയിട്ടുള്ള കേരള ഫിനാൻഷ്യൽ കോർപ്പറേഷനുമായി ബന്ധപ്പെട്ട ഖണ്ഡിക 4.16-യിൽ Star Refiners Private Limited എന്ന സ്ഥാപനത്തിന് അഡീഷണൽ ലോൺ അനുവദിച്ചതിലെ ക്രമക്കേടുകൾ കണ്ടെത്തുന്നതിനുവേണ്ടി നടക്കുന്ന വിജിലൻസ് അന്വേഷണത്തിന്റെ വിശദാംശങ്ങൾ ഒഴികെ കേരള ഫിനാൻഷ്യൽ കോർപ്പറേഷനിൽനിന്നു ലഭ്യമായ റിപ്പോർട്ടിന്റെ അടിസ്ഥാനത്തിൽ ഇടക്കാല മറുപടി നൽകുന്നു.

(എ) Five Star Rubber Industries (P) Limited, Edayar, Ernakulam എന്ന സ്ഥാപനത്തിന് വായ്പ അനുവദിച്ചതിലെ ക്രമക്കേടായി ബന്ധപ്പെട്ട് മുൻ ജനറൽ മാനേജർ ശ്രീ. സാനു സക്കറിയായിനെ സർവ്വീസിൽനിന്നും സസ്പെന്റ് ചെയ്യുകയും, ഇതു സംബന്ധിച്ചുള്ള വിജിലൻസ് കേസിന്റെ (VC 2/2010/CRE) അന്വേഷണം തുടരുകയും ചെയ്യുന്നു. ടിയാൻ 2010-ൽ സർവ്വീസിൽനിന്നും വിരമിച്ചു.

(ബി) നിലവിൽ ജാമ്യമായി സ്വീകരിക്കുന്ന ഭൂമി, കെട്ടിടങ്ങൾ എന്നീ സ്ഥിരം ആസ്തികളുടെ മൂലയ്ക്ക് നിർണ്ണയിക്കുന്നത് സാധാരണയായി കോർപ്പറേഷന്റെ ജനറൽ, ടെക്നിക്കൽ, ലിഗൽ സെക്ഷനിൽനിന്നും ഓരോ അംഗങ്ങൾ അടങ്ങുന്ന സംഘം ആണ്.

വസ്തുവിന്റെ വില നിർണ്ണയിക്കുന്നത് താഴെപ്പറയുന്ന സംഗതികൂടി പരിശോധിച്ചതിന് ശേഷമായിരിക്കണം:

- (1) വസ്തു രജിസ്റ്റർ ചെയ്തത് ഒരു വർഷത്തിനുള്ളിൽ ആണെങ്കിൽ പ്രമാണത്തിലെ വിലയും രജിസ്ട്രേഷൻ ചാർജ്ജും ആണ് വസ്തുവിന്റെ വിലയായി നിശ്ചയിക്കേണ്ടത്.
- (2) സർക്കാർ നിശ്ചയിച്ചിരിക്കുന്ന ഫെയർ വാല്യു.
- (3) റിസർവ് ബാങ്ക് ഓഫ് ഇൻഡ്യ/ഇൻകം ടാക്സ് അതോറിറ്റിസ് നിർദ്ദേശിച്ചിരിക്കുന്ന പ്രകാരം (കോസ്റ്റ് ഇൻഫ്ളേഷൻ ഇൻഡക്സ് അനുസരിച്ചുള്ള) വസ്തുവിന്റെ ഇൻഡക്സ്ഡ് കോസ്റ്റ് ഓഫ് അക്വിസിഷൻ.
- (4) സമാനരീതിയിലുള്ള വസ്തുവിന്റെ വിലയാധാരം.
- (5) വിശദമായ അന്വേഷണത്തിനുശേഷം വസ്തുവിന്റെ നേട്ടങ്ങളും കോട്ടങ്ങളും മറ്റു അനുബന്ധ ഘടകങ്ങളും വിലയിരുത്തി മാർക്കറ്റ് വാല്യു നിശ്ചയിക്കേണ്ടതാണ്.

കൂടാതെ കെട്ടിടം, മെഷീനറികൾ തുടങ്ങിയ ജാമ്യവസ്തുക്കളുടെ മൂല്യം നിർണ്ണയിക്കുന്നത് വ്യക്തമായ വാലയുവേഷൻ പോളിസിയും നിലവിലുണ്ട്.

അവശ്യഘട്ടങ്ങളിൽ ജാമ്യവസ്തുക്കളുടെ വില നിശ്ചയിക്കുന്നതിനായി കോർപ്പറേഷനിൽ രജിസ്റ്റർ ചെയ്തിട്ടുള്ള എക്സ്റ്റേണൽ വാലയുവേഷന്റെ സേവനവും പ്രയോജനപ്പെടുത്താവുന്നതാണ്.

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(ഡി) വായ്പാവിതരണത്തിലെ ന്യൂനതകൾ പരിഹരിക്കുന്നതിന് താഴെ പറയുന്ന നടപടികൾ സ്വീകരിച്ചുവരുന്നു:

- (1) 1 കോടി രൂപ മുതൽ 2.50 കോടി രൂപ വരെയുള്ള വായ്പ പാസ്സാക്കിയതിനുശേഷം സോണൽ മാനേജർ നിയമിക്കുന്ന 2 പേരടങ്ങുന്ന ഒരു കമ്മിറ്റി ഫയൽ പരിശോധന നടത്തുന്നു.
- (2) 2.50 കോടി രൂപയ്ക്ക് മുകളിൽ ഉള്ള വായ്പ അനുവദിച്ചതിനുശേഷം 2 പേരടങ്ങുന്ന ഒരു സംഘത്തെ ഫയൽ പരിശോധിക്കുന്നതിന് ക്രെഡിറ്റ് ഡിപ്പാർട്ട്മെന്റ് നിയമിക്കുന്നു.
- (3) വായ്പ പാസ്സാക്കി ആവശ്യമായ എഗ്രിമെന്റ് വച്ചതിനുശേഷം വായ്പ തുക പൂർണ്ണമായി വിതരണം ചെയ്യുന്നതിനുമുമ്പായി പ്രീ-ഡിസ്ബേഴ്സ്മെന്റ് ഓഡിറ്റ് നടത്തുന്നതിനുള്ള ഒരു സംഘത്തെ സോണൽ ഓഡിറ്റ് ഓഫീസർ നിയമിക്കുന്നു.
