

From PD's Desk

Regional Training Institute has recently been re-designated as Centre of Excellence on 'Audit of Municipal Corporations' and Audit of Corporate Governance and Corporate Finance. One of our main focus areas in this regard, apart from organizing trainings, seminars and workshops on the topic, is preparation of case studies emanating largely from audit experiences of field audit formations that have been printed in C&AG's Audit Reports. This would help consolidate and strengthen knowledge in this important area of audit.

The case study, "Non-regularisation of Mobile Towers" has been prepared based on para 6.6 of Audit Report (Local Bodies) for the year ended March 2010 – Government of Maharashtra.

I would like to place on record my sincere thanks to Local Bodies Audit and Accounts wing, Maharashtra, Mumbai for making available all documents that went into the preparation of the case study.

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Municipal Corporation of Greater Mumbai

1.1 Non Regularisation of Mobile Towers

Loss of revenue of Rs.6.50 crore caused by internal control failure to monitor and detect unauthorized construction of Mobile Towers

Procedure for grant of permission or regularization to structures erected for installation of cellular telecommunication equipment (Mobile Towers) is contained in the instructions issued by the MCGM in October 1995 and June 2002. These instructions provide for:

- 1. Payment of annual fee of Rs.600**
- 2. Deposit of Rs.5000 for demolition**
- 3. Penalty of Rs.5000 for regularization of already constructed Mobile Towers**
- 4. payment of premium on the basis of space utilized multiplied for the land rate as depicted in the annual Stamp Duty ready reckoner published by the State Government in five annual installments at a simple interest of 10% per annum on the unpaid balance.**
- 5. Right of Corporation to revoke permission and removal of installation in case of non-payment of premium**

Property tax is leviable on these structures in addition to the above in accordance with section 143 of the Mumbai Municipal Corporation Act, 1888 which stipulates levy of property tax in respect of all buildings including all structures, authorized or unauthorized.

It was found in audit that only 30% of the approvals received for permission/revalidation for construction of cabins erected by telecom companies since the year 1997 have been regularized till February 2010. Non-regularisation of the remaining 70% cases resulted in loss of revenue to the Corporation to the tune of Rs.6.50 crore.

Out of the proposals scrutinized in detail, it was seen that 16% of the proposal were pending for more than five years, 21% for three to five years and 45% for one to three years.

It was further seen on test check that property tax was collected by the Corporation even on MTs that were not authorized indicating lack of internal controls and coordination between the Building Proposal Department and Property Tax Department.

Important learning points

1. This audit observation basically emanated from the examination of the register of installation charges of mobile towers maintained by the Dy.Chief Engineer, Building Proposal Department. This should be the case with most Corporations as proposals for approval of erection of Mobile Towers are normally received in the Building Proposal Department.
2. Procedure for levy and collection of charges for erection of Mobile Towers is normally laid down in the internal circulars and instructions issued by the respective Corporation. The procedure would normally be the same and grant of approval for construction/regularisation would also be based on conditions that would be similar across all Municipal Corporations though the premium/penalty may vary.
3. The land rates for stamp duty purposes on which premium for erection of Mobile Towers is based are notified by the Department of Stamps of the respective State Government. These rates can also be accessed online in most States. The website for the Government of Maharashtra is <http://igrmaharashtra.gov.in>.
4. The levy of property tax is not affected by the charging of premium or other fees on the erection of mobile towers in view of the provisions contained in Section 143 of the Mumbai Municipal Corporation Act, 1888. Compliance of similar provisions if applicable to other Corporations should also be ensured in audit.

5. Linkages between the records of the Property Tax department and the Building Proposal Department can be examined to detect cases where Property Taxes have been levied on Mobile Towers while premium/fee has not been charged by the Building Proposal Department or vice versa.

6. Regulation 35(2)(q) of Development Control Regulations for Greater Mumbai, 1991 stipulates that area of one room for installation of telephone concentrators as per requirements of MTNL upto 20 sq.m shall not be included in the Floor Space Index computation. Similar rules would be available in other Municipal Corporations though the allowable area may vary.

Other Learning Points

An extract of para 1.18 of TRAI recommendations on Telecommunications Infrastructure Policy dated April 12, 2011 relevant to this subject is reproduced below for information and guidance:

In absence of a uniform national policy for granting permission to place a telecom infrastructure element, local civic authorities/State Governments have come up with their own policies. These policy guidelines vary widely across the country from State to State, city to city having different terms and conditions, taxes, levies, safety aspects and involve lengthy procedure for grant of permission. To illustrate the variations in the policies adopted by various states, the policies of various states for erection of towers was studied. (**Annexure-II**). As can be observed, there is a wide variation between the policies and conditions prescribed by the states even though all telecom services are governed under the same Indian Telegraph Act, 1885. In many cases, the process is reported to be complicated and time consuming. The main issues are high charges for grant of permission, complicated approval procedure and clearances required from multiple agencies resulting in delays. These procedural issues have resulted in increased costs, delayed investments, higher roll out time and poor quality of service. Therefore, there is an urgent need to streamline the procedures within the legal framework and come up with a national policy to achieve faster growth of telecommunication services in the country. A uniform policy should have a single legal framework for the entire country and need to be applicable for deployment of all kinds of infrastructure elements. Since major growth is happening in mobile area which requires deployment of large number of towers, specific questions relating to erection of towers were put up for consultation.

Annexure II

Comparison of Guidelines issued by different States and UTs for erecting mobile towers

S. No.	State/ UT	Permissions					Applicable Fee			
		Building permission / Land Use conversion	General Conditions *	Initial permission for	Time frame for erection of tower	Time frame for Granting Permission	Installation fee	Annual fee	Monthly fee	Other fee
1.	Himachal 22.8.2006	Restricted	1,5,7,8,10,11,12	5 years	Not mentioned	30days	₹ 20,000 (Maximum) different for urban & Rural areas	₹ 10000	Nil	Extra @60% additional for sharing with each additional operator
2.	Delhi (MCD) 9.2.2010	Restricted	1,2,3,4,5,6,7,8,9,10,11,12	Initially for 5 Years	3 months	Not mentioned	₹ 5Lakh	Nil	₹ 25/- per sq. ft minimum of ₹ 25000/- for municipal building	Additional ₹ 1 Lakh per sharing

3.	Delhi (NDMC) 26.7.2002	Restricted	1,2,3,4,5,6,7,8,9,10,11,12,13	10 years	3 months	Not mentioned	₹ 2Lakh		₹ 25/- per sq. ft minimum of ₹ 25000/- for municipal building	Additional ₹ 1 Lakh per sharing
4.	Rajasthan	Restricted	1,7,8,9,13	Not mentioned	Not mentioned	Not mentioned	₹ 1Lakh	Nil	₹ 25/- per sq. ft minimum of ₹ 10000/-	Additional ₹ 50000 for each sharing
5.	Haryana 11-11-2009	Restricted	1,2,3,4,5,6,7,8,9,10,11,12,13	Not mentioned	Not mentioned	Not mentioned	₹ 2Lakh (Maximum) Vary from high potential zone to Low potential zone	10% of the licence fee	nil	Additional ₹ 1 Lakh for each sharing
6.	Chandigarh 4-1-2008	Restricted	1,2,3,4,5,6,7,8,9,10,11,12,13	11 years	Not mentioned	2 months from date of receipt of application	Location and Zone wise, details not mentioned, Penalty ₹ 2 Lakh per tower for installing without permission.			
7.	Greater Noida	Restricted	1,5,6,7,8,9,13	3 Years	Not mentioned	Not mentioned	₹ 1Lakh	---	₹ 25000	₹ 50,000 per sharing

8.	Andhra Pradesh 27.2.2008	Exempted	2,4,5,10	Not mentioned	Not mentioned
9.	Tamil Nadu 12.2.2001	Exempted	--	Initially for 10 Years	Not mentioned

*General conditions:

- | | | |
|---------------------------------------|--|------------------------------------|
| 1. Affidavit from building owner | 2. NOC from neighbour, | 3. 3 rd party Insurance |
| 4. Fire Safety Clearance | 5. Indemnity Bond for building damage/
public safety, | 6. Affidavit for radiation level, |
| 7. Copy of building sanctioned plan | 8. Certificate for structural safety | 9. Noise standards for DG sets |
| 10. Clearance from Civil aviation | 11. Clearance from Defence | 12. Clearance from PrasaarBharti |
| 13. Restriction for Heritage building | | |

In the case of MCGM, the documents to be submitted are as under:

- 1. Consent letter/NOC from owner**
- 2. Structural Stability Certificate from Registered Structural Engineer**
- 3. Notarized undertaking for not using the temporary cabin**
- 4. Copy of licence granted by DOT, Govt. of India**
- 5. joint undertaking for demolishing the temporary cabin on discontinuing the basic telephone services activity**
- 6. NOC from Civil Aviation (if required)**
- 7. NOC from Heritage Committee if the building is declared heritage structure and/or situated in heritage precincts**