



FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

COMMITTEE

ON

**PUBLIC UNDERTAKINGS
(2023-26)**

FORTY THIRD REPORT

(Presented on 11th February, 2025)

SECRETARIAT OF THE KERALA LEGISLATURE

THIRUVANANTHAPURAM

2025

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On

Kerala State Road Transport Corporation

**(Based on the Reports of the Comptroller and Auditor General of India for
the years ended 31st March, 2017 & 2018)**

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**COMMITTEE ON PUBLIC UNDERTAKINGS
(2023-26)**

COMPOSITION

Chairperson:

Shri E. Chandrasekharan

Members:

Shri A.P. Anilkumar

Shri Anwar Sadath

Shri Ahammad Devarkovil

Shri T. V. Ibrahim

Shri P. Mammikutty

Shri K. P. Mohanan

Shri D. K. Murali

Shri P. Nandakumar

Shri Kadakampally Surendran

Shri P. Ubaidulla

Legislature Secretariat:

Dr. N.Krishna Kumar, Secretary

Shri Venugopal R., Joint Secretary

Shri Anil Kumar B., Deputy Secretary

Shri Mohanan O., Under Secretary

INTRODUCTION

I, the Chairperson, Committee on Public Undertakings (2023-26) having been authorised by the Committee to present the Report on its behalf, present this 43rd Report on Kerala State Road Transport Corporation based on the report of the Comptroller and Auditor General of India for the years ended 31st March, 2017 & 2018 relating to the Public Sector Undertakings of the State of Kerala.

The aforesaid Reports of the Comptroller and Auditor General of India was laid on the Table of the House on 19-06-2018 & 24.08.2020 respectively. The consideration of the audit paragraphs included in this report and examination of the departmental witness in connection thereto were made by the Committee on Public Undertakings (2021-2023) at its meeting held on 21.08.2023.

This Report was considered and approved by the Committee (2023-26) at its meeting held on 30.10.2024.

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

The Committee wishes to express thanks to the officials of the Transport Department of the Secretariat and the Kerala State Road Transport Corporation for placing the materials and information solicited in connection with the examination of the subject. The Committee also wishes to thank in particular the Secretaries to Government, Transport Department and Finance Department and the officials of the Kerala State Road Transport Corporation who appeared for evidence and assisted the Committee by placing their views before the Committee.

Thiruvananthapuram,
11th February, 2025.

E. CHANDRASEKHARAN,
Chairperson,
Committee on Public Undertakings.

REPORT
ON
KERALA STATE ROAD TRANSPORT CORPORATION
(2016-17 & 2017-18)

Para 4.10 - Avoidable liability due to delay in collection of service tax (2016-17).

Delay in decision on collection of service tax from passengers of air-conditioned buses resulted in avoidable liability of ₹3.05 crore, besides penal interest of ₹61.14 lakh.

Government of India (GoI) issued (01 March 2016) a notification mandating levy of service tax on the service of transportation of passengers by air conditioned buses with effect from 01 June 2016. Accordingly, the service tax, being an indirect tax, shall have to be paid by passengers availing such services at the rate of 6 *per cent*¹. Service tax so collected by the service provider was to be paid to the Central Government on or before 5th (Offline payment)/6th (Online Payment) of the succeeding month. Failure to pay service tax on or before due date would attract penal interest. Penal interest would be 24 *per cent* per annum if amount of service tax is collected but not credited to the Central Government on or before the due date and 15 *per cent* per annum in other cases.

Kerala State Road Transport Corporation (Corporation) was established (March 1965) under the Road Transport Corporation Act, 1950 to provide road transport services and other ancillary services in the State. The Corporation operated 221 air conditioned buses as of June 2016. Since service tax on transportation of passengers by air conditioned buses would become part of the ticket fare, approval of State Government was required for its implementation as per Section 19 of the Road Transport Corporation Act, 1950.

¹ After abatement of 60 *per cent* on service tax of 15 *per cent*.

As service tax became leviable from 01 June 2016 and in order to obviate payment of interest on delayed payment of service tax, the Corporation ought to have obtained approval of Government of Kerala (GoK) sufficiently in advance for its levy through fare hike with effect from 01 June 2016. Despite this, the Corporation requested GoK only on 13 May 2016 to take a decision as to whether the service tax was to be collected from the passengers or to remit service tax from the existing revenue of the Corporation. As the Corporation did not receive directions in this regard from GoK, the Corporation did not collect service tax from passengers of air conditioned buses and did not remit the dues on account of service tax to GoI. Approval of GoK for collecting service tax from passengers was received only on 22 November 2016. The Corporation started collection and remittance of service tax with effect from 16 December 2016 only.

Audit observed that the Corporation and GoK took about nine months² for taking final decision on the subject. As a result, the Corporation did not collect service tax amounting to ₹3.05 crore from passengers who availed service of transportation on air conditioned buses during 01 June 2016 to 15 December 2016. GoI advised (April 2017) the Corporation to make payment of the service tax on the value of service provided during 01 June 2016 to 15 December 2016 along with interest. Hence, the Corporation became liable to pay service tax from its revenue along with penal interest of ₹61.14 lakh³. The Corporation was yet to remit the same (January 2018).

Thus, the delay in decision making at the Government / Corporation level for collection of service tax coupled with non-compliance of provisions of Finance Act resulted in avoidable liability of ₹3.05 crore and penal interest of ₹61.14 lakh.

GoK stated (April 2017) that as soon as the said notification was issued, GoI was requested for granting exemption from levying the same and

² About three months on the part of KSRTC and about six months on the part of GoK.
³ At the rate of 15 per cent per annum upto 31 January 2018.

since the request for exemption was not accepted by GoI, permission was given (22 November 2016) to the Corporation for collecting the service tax along with ticket fare. Accordingly, the Corporation started levying the same with effect from 16 December 2016. It was further stated that the liability accrued not because of any administrative delay on the part of the Corporation.

The reply was not acceptable as GoI issued notification on 01 March 2016 with date of effect from 01 June 2016. The Corporation should have approached GoK in time for levy of service tax from passengers of air conditioned buses. But, the Corporation requested GoK only on 13 May 2016 and GoK accorded its approval on 22 November 2016 to charge service tax.

Thus, the inordinate delay on the part of the Corporation and GoK resulted in the Corporation's liability to pay service tax of ₹3.05 crore along with penal interest of ₹61.14⁴ lakh out of its own resources. The amount of penal interest would increase if the payment is further delayed by the Corporation.

[The Audit paragraph 4.10 contained in the Report of the C&AG for the year ended 31st March 2017]

The notes furnished by the Government on the audit paragraph are given in Appendix II

Discussion and findings of the Committee

Para 4.10 – Avoidable liability due to delay in collection of service tax(2016-17).

The Committee enquired about the audit observation that the delay in decision on collection of service tax from passengers of air conditioned buses resulted in avoidable liability of ₹3.05 crore besides the penal interest

4 Upto 31 January 2018.

of ₹61.14 lakh. The Chairman and Managing Director, Kerala State Road Transport Corporation replied that the matter is under the contemplation of CESTAT (Customs Excise & Service Tax Appellate Tribunal).

The Chairman and Managing Director admitted that there was a delay in remitting the service tax to Central Government. He added that after receiving sanction from the Government of Kerala the fare was accordingly revised and started remitting the service tax to the Central Government account. But due to acute financial crisis of the Corporation, it was impossible to remit the tax due from 01.06.2016 to 30.11.2016.

The Committee enquired about the remark in the RMT that the delay in remitting service tax was related to the passing of Finance Act. The Secretary ensured that the matter would be examined in detail and would furnish a report to the Committee.

The Committee observed that the amount of penal interest would increase if the payment is further delayed by the Corporation. So the Committee recommended that expeditious action should be taken to curtail such losses in future.

Conclusions/Recommendations

1. In the month of March 2016, through a notification, KSRTC was informed that service tax should be collected from the passengers of air conditioned buses but KSRTC did not collect the service tax and remit to the Central Government on time. The Committee understands that the matter of payment of service tax of ₹3.05 crore and penal interest of ₹61.14 lakh is under the contemplation of CESTAT. The Committee cannot ignore the failure of KSRTC even if it is pointed out that the amount could not be paid due to financial crisis. The lapse on the part of KSRTC that led to this situation cannot be justified. The Committee

recommends that decision taken by CESTAT in this regard should be informed to the Committee.

2. The Committee recommends to submit a report regarding the reference in the RMT furnished by the Department that the delay in remitting the service tax was related to the passing of Finance Act.

3. The Committee observes that the amount of penal interest would increase if the payment is further delayed by the Corporation. Hence the Committee recommends that expeditious action should be taken to curtail such losses in future.

Para 5.3 – Sharing of revenue from Build, Operate and Transfer (BOT) projects(2017-18)

Due to non-adherence to the directions of Government of Kerala in payment of annuity by the BOT operator, the Corporation incurred an avoidable loss of interest of ₹0.40 crore. Further, the share of revenue amounting to ₹4.54 crore from the use of interest free security deposit remained to be claimed from the BOT operator.

Government of Kerala (GoK) approved (May 2007) the construction of four shopping complexes on Build, Operate and Transfer (BOT) basis by Kerala Transport Development Finance Corporation Limited (BOT Operator). The shopping complexes were to be constructed on the land owned by Kerala State Road Transport Corporation (Corporation) at Angamaly, Thampanoor, Kozhikode and Thiruvalla bus stations. In consideration of the use of land, the BOT operator was to pay the Corporation an annuity at the rate of 50 *per cent* of the net monthly income⁵ generated from the BOT project after the construction period. The annuity was payable on quarterly basis.

⁵ Income after deducting all expenses related to operation and maintenance of the shopping complex.

The BOT operator completed the construction of all the four shopping complexes⁶ between June 2012 and March 2016. Shops in Thiruvalla complex were not let out as the Municipality did not allot building number to the shopping complex due to violation of Fire and Safety Rules. In Kozhikode shopping complex, shops were not allotted due to court case arising from allotment of the entire space as a single block to MAK Associates, the highest bidder.

The BOT operator started allotting shops in Angamaly and Thampanoor shopping complexes with effect from August 2012⁷ on the basis of highest monthly rent offered. As of February 2019, the percentage of allotment in these complexes was between 84 and 91 respectively.

Audit observations on sharing of revenue in these two shopping complexes are discussed below:

- According to the directions of the Government, the Corporation and the BOT operator were to execute an agreement for working out the net income. Such an agreement was not executed so far (February 2019) in respect of any of the shopping complexes.
- From the Angamaly shopping complex, the Corporation was to get ₹3.80 crore (based on the net income worked out by the BOT operator) towards the annuity from the BOT operator during July 2012 to March 2018⁸. The BOT operator did not, however, pay the share of net revenue to the Corporation until November 2014 on the ground that the entire commercial space was not let out and hence, the monthly expenses, for operation and maintenance of the building was not assessable. When the Corporation took up the issue with the BOT operator in November 2014, the BOT operator paid ₹3.01 crore as annuity on provisional basis in seven tranches between November 2014 and October 2017. The delay in payment of the annuity ranged

⁶ Angamaly in June 2012, Thampanoor in May 2014, Thiruvalla in October 2015 and Kozhikode in March 2016.

⁷ Income from pay and park derived from May 2012 onwards.

⁸ This includes share of income derived from parking fees during May 2012 to July 2012

between 18 and 773 days. After October 2017, no payment was received till date (July 2018) despite ₹0.79 crore remaining recoverable towards the share of the Corporation for the period from July 2017 to March 2018.

- Similarly, in respect of Thampanoor shopping complex, the Corporation was to get ₹0.39 crore towards the annuity from the BOT operator during January 2015 to March 2018. But no payment was received till date (July 2018).
- As the Corporation carried out its day to day operations with borrowed funds carrying rate of interest between 13 *per cent* and 14 *per cent* during 2012-13 to 2017-18, the delay in receipt of annuity from the BOT operator, resulted in loss of interest of ₹0.40 crore⁹ to the Corporation.
- As per conditions of allotment of space, the successful bidders were to remit Interest Free Security Deposit (IFSD) equivalent to 18 times of the amount offered as monthly rent. This amount would be retained by the BOT operator until the expiry / termination of the lease period. As per the directions of the GoK, all the revenue derived by the BOT operator from the BOT project after the construction period was to be included in income.

Audit observed that the BOT operator collected ₹23.83 crore¹⁰ from the tenants of the four shopping complexes during 2014-2018. Income sharing formula between the BOT operator and the Corporation did not consider the benefit derived by the BOT operator from IFSD. Considering the cost of debt incurred by the BOT operator, benefit derived by the BOT

9 Calculated at the average cost of borrowing of 13.42 *per cent*. ₹ 0.37 crore in case of Angamaly and ₹0.03 crore in Thampanoor shopping complexes respectively.

10 Angamaly ₹ 13.50 crore, Thampanoor ₹ 7.09 crore, Thiruvalla ₹ 3.20 crore and Kozhikode ₹ 0.04 crore.

operator from the use of IFSD worked out to ₹9.07 crore¹¹ during 2014-15 to 2017-18.

Although the benefit of ₹9.07 crore derived out of IFSD was to be shared with the Corporation, the same was not done by the BOT operator. Thus, the Corporation did not get 50 *per cent* (i.e., ₹4.54 crore) of this revenue.

Thus, due to non-adherence to the directions of the GoK in payment of annuity by the BOT operator, the Corporation incurred an avoidable loss of interest of ₹0.40 crore. Further, the share of revenue amounting to ₹4.54 crore from the use of IFSD remained to be claimed from the BOT operator.

GoK, while confirming (July 2019) that the Corporation and the BOT operator were yet to enter into an agreement, stated that only rental income was directly attributable to the operation and maintenance of the building and, hence, considered for calculation of annuity. GoK also replied that as per the accounts of the BOT operator, ₹502 crore was due from the Corporation towards outstanding loans and interest thereon. Government directed the Corporation to reconcile the loans accounts. Income sharing would be considered only after arriving at a final decision in these matters.

The reply of the GoK was not acceptable because as per the orders (October 2007) of the GoK, the BOT operator was to maintain full accounts of all fees including realisable fees and other revenues derived / collected on account of the use of bus terminal complex. Fifty *per cent* of the net monthly income was to be shared between the Corporation and the BOT operator. Hence, the benefit derived out of IFSD was also sharable. Clearance of loan liability was not to be linked with the payment of annuity as the BOT operator paid ₹3.01 crore as annuity in respect of Angamaly project to the Corporation on provisional basis even when loan of ₹502 crore was due (March 2016) from the Corporation.

¹¹ Interest has been working out taking average balance (i.e., opening balance + closing balance/2) of IFSD for each financial year.

[The Audit paragraph 5.3 contained in the Report of the C&AG for the year ended 31st March 2018]

The notes furnished by the Government on the audit paragraph are given in Appendix II

Discussion and findings of the Committee

Para 5.3 – Sharing of revenue from Build, Operate and Transfer (BOT) Projects.

The Committee enquired about the audit observation that due to non-adherence to the directions of Government of Kerala in payment of annuity by the BOT operator, the Corporation incurred an avoidable loss of interest of ₹0.40 crore and the share of revenue amounting to ₹4.54 crore from the use of interest free security deposit remained to be claimed from the BOT operator.

The General Manager, KTDFC informed that KTDFC had received deposits from the general public and provided loan to KSRTC. Because KSRTC failed to repay the loan, KTDFC confronted acute financial crisis and could not even disburse salary to its employees or return the mature deposits to the investors and cases are also prevailing in this regard.

The General Manager KTDFC added that in Kozhikode, the entire space for the shopping complex was allotted as a single block to MAK Associates, the highest bidder. Now the building is in a hazardous condition and MAK Associates have to invest ₹34 crore to re-use the building and no one is taking the bid. The Secretary added that since KTDFC constructed the building in 2013 by resorting to the services of retired engineers, there have been many vigilance cases related to this.

The Secretary informed that the deposits upto ₹4500 crore to KTDFC are guaranteed by the Government and private parties are approaching the Government to invoke the Government guarantee. He added that as the

building is owned by KTDFC and land owned by KSRTC, the only way to resolve the issue is to liquidate the debts.

The Committee enquired about the current status of the shopping complex at Thampanoor. The Secretary replied that the shops were allotted to Government offices before the Covid situation but they had not remitted the rent citing the Covid scenario. The Government also decided to avoid the rental payment due to Covid conditions that also led to the loss of revenue.

The General Manager, KTDFC informed that the shopping complex at Angamaly was profitable in the beginning but after the Covid situation the cinema theatre in the complex was closed down. He added that the shopping complex at Thiruvalla is confronting huge loss and a notice to remit ₹33 crore in terms of depreciation has been received from the Income Tax Department. He added that the reason for non execution of an agreement between KTDFC and KSRTC was the non fixation of rate of interest.

The Secretary put forward some suggestions before the Committee to resolve the matter. Firstly, the Government may transfer the ownership of the land to KTDFC to adjust the debts, and then to sell it off. Secondly, as the investment from the general public is about ₹ 500 crore at an interest rate of 8 percent, the Government may increase the interest rate upto 9¼ percent to avoid the withdrawal of the deposits. Thirdly, the Government may merge it either to KSFE or to KFC to retain the assets. Finally, the Government may put the four shopping complexes for an auction and pay off the debts and there by it can re-instate the eight permanent employees.

The Financial Advisor, KSRTC informed the Committee that the major investors are from North India due to the high interest rate compared to other states and remaining investors from Kerala are in a pitiable condition as they are not getting their mature investment back.

Conclusions/Recommendations of the Committee

4. *The Committee understands that big projects that attract huge investments are usually implemented under BOT, DBOT or BOOT schemes since Government is unable to find capital for such projects and private investment becomes the main source.*

5. *As per the norms for projects under such schemes, the financial viability of the project, the funding, the total cost of the project, rate of interest, the land value under lease, the percentage of sharing revenue between the partners and the time of returning the project will be determined by financial experts in a transparent way and MOU will be signed before the starting the project. In this context, the Committee could not find any logic why two PSUs under one Department resorted to BOT for construction of shopping complexes flouting all standard protocol of such schemes.*

6. *The KTDFC, a Non- Banking Finance Company functioning under Reserve Bank guidelines was mooted to finance KSRTC by receiving deposits from public. While embarking the project, KTDFC was already reeling under financial constraints due to financing KSRTC which could not remit money, where the total amount with interest due to them totalling to around ₹500 crore. Hence, choosing KTDFC as a funding partner for construction of shopping complexes for KSRTC without handing over land, without fixing rate of interest and signing of MOU, was a huge mistake done by the Transport Department and it was like dipping a man in water who was already gasping for breath. The Committee opines that this issue perfectly illustrates a project that could fail catastrophically if a scheme with specific norms and protocols transformed with perceived needs of officials.*

7. The Committee observes that construction of shopping complex at Kozhikode was unscientific such that people cannot see the name board of buses parked in the station and the buses could not easily move between two pillars and thirty one pillars of the building seen in a dilapidated condition and as per the report of IIT Madras, the building is in danger. Hence the Committee recommends that the amount for repairing the building should be worked out and the amount should be levied from the contractors under risk and cost. The officials who entrusted the work to the contractor without assessing and monitoring shall be found out and disciplinary action be taken against them.

8. The Committee also noticed that the building is with KTDFC and the land is with KSRTC and hence an amicable solution for the project is remote. Hence the Committee strongly recommends that suitable plans should be evolved to settle the problem amicably between KSRTC and KTDFC and no more new projects for constructing shopping complexes in KSRTC bus stations in other districts should also be ventured into till the settlement of the present crisis.

**Thiruvananthapuram,
11th February, 2025.**

**E.Chandrasekharan,
Chairperson,
Committee on Public Undertakings.**

APPENDIX-I
SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

Sl No.	Para No.	Department Concerned	Conclusions/Recommendations
(1)	(2)	(3)	(4)
1	1	Industries	The Committee observes that there was a fault on the part of KSIDC in providing the data in the required format to CMC Limited and CMC Limited also failed to customise the software to the Company's needs. So the Committee recommends to identify the officials responsible for this.
2	2	Industries	The Committee observes that the Steering Committee constituted for the periodic review of the project did not meet even once to review the progress of the project. So the Committee recommends to identify the officials responsible for this serious lapse.
3	3	Industries	The Committee observes that NEST, who was responsible for the preparation of contract agreement did not perform the assigned task properly. As per the provisions of SPM, the agreement was to contain risk and cost clause to ensure the due performance of the contract. But the Company and NEST failed to include such clause in the contract. The Committee observes this as a serious lapse and recommends to furnish a report detailing the responsible Officials and to take stringent action against them.
4	4	Industries	The Committee observes that the Company procured computer hardware from CMC Limited through another contract before ensuring the suitability of the project module which resulted in the idling of the hardware in the State Data Centre. The Committee recommends to

			furnish a report regarding this.
5	5	Industries	The Committee vehemently criticises the top officers of the Company for not implementing ERP system in a time bound manner and directs to furnish a report on the current status of the project.
6	6	Industries	The Committee observes that the decision taken by KSIDC to return the collateral security before full payment of OTS amount and settling of outstanding dues against the primary security is a clear violation of OTS policy of the Company. Hence the Committee recommends to furnish a detailed report including the details of the officials who were responsible for the lapse.
7	7	Industries	The Committee observes that the interest rate of treasury is higher than that of the banks and there was a violation of the guidelines by KSIDC. Hence the Committee recommends to furnish a detailed report regarding the violation of guidelines.