

STATUS OF ARBITRATION & MAJOR COURT CASES OF HPC

A. ARBITRATION CASES

The Board in its 140th meeting held on 20.9.96 had advised submission of the status of arbitration cases by way of exception highlighting the progress made between the two Board Meetings.

1. HPC –vs- Universal Traders (UT)

Dispute arose on account of non-payment of price of goods by M/s. UT, ex-stockist, Delhi to HPC.

Arbitral Tribunal: Justice Anil Kumar Sen (Retd)

Initial claim filed by HPC: Rs. 65,60,241.18 (including Rs. 27,16,000.80 towards sales tax liability)

Amended claim Rs. 37,57,598.48 (Sales tax liability reduced to 1,18,825.00 on account of subsequent submission of forms by UT)

Counter claim of UT Rs. 1,02,74,000.00

Status: The arbitration proceedings have been concluded and the Learned Arbitrator has published the award on 27.12.2008 with the following reliefs:

To HPC:

- i) Rs. 12,28,590/- towards unpaid price of paper.
- ii) Rs. 8,20,549/- towards interest for the delayed payment up to March 1999 @ 28% as per the price circular of HPC.
- iii) Rs. 1,14,467/- towards Sales Tax liability.

TOTAL Rs. 21,63,606/-

To UNIVERSAL TRADERS:

- i) Rs. 45,000/- towards interest on the initial S.S. of Rs. 1.00 lakh @ 15% up to 1996-97.

- ii) Rs. 2,13,750/- towards interest on Rs. 9.00 lakhs from 1.9.1995 to 31.3.1997 @ 15%.
- iii) Rs. 10,00,000/- towards refund of Security Deposit.
- iv) Rs. 3,42,386/- towards sales reversal.

TOTAL Rs. 16,01,136/-

After adjusting the amount of Rs. 16,01,136/- HPC has been awarded a sum of Rs. 5,62,400/- and interest amount of Rs. 5,38,969/- @ 10% on the amount of Rs. 5,62,400/- from 26.3.1999 to 31.10.2008. Thus the total amount awarded to HPC works out to Rs. 11,01,369. In case UT does not make the payment of the awarded of Rs. 11,01,369/- to HPC within 90 days from the date of award, they will be liable to pay further interest @ 10% on Rs. 5,62,400/- from the date of award until payment or realization thereof. A notice demanding the awarded sum has been sent to UT, Delhi on 4.3.2009

M/s UT vide their letter dated 21.3.2009 offered to settle the matter provided they are exempted of interest and 50% of the awarded sum. The said offer being not acceptable approval has been sought from the Competent Authority to give a counter offer stating that HPC is agreeable to settle the matter provided UT pays the principal amount of Rs. 5,62,400/- and 90% of Rs. 5,38,969/-. There will be no waiver of interest for the post awarded period i.e. from 27.12.08 till the date of realization. As M/S UT have not responded to our counter offer given vide letter dated 29.6.2009 HPC has advised its Advocate to file the execution application at Delhi vide letter dated 1.10.2009. The execution petition is under preparation and shall be filed shortly.

2. HPC –vs- Mittal Traders (MT)

Dispute arose on account of non-payment of price of goods by M/s. MT, ex-stockist, Delhi to HPC.

Arbitral Tribunal: Justice G.N. Ray (Retd)
 Initial Claim filed by HPCL: Rs. 1,20,96,901.95
 -+Amended claim of HPC: Rs. 1,27,11,901.00 (Rs. 6.15 lakhs towards Sales tax liability included subsequently).
 Counter claim of MT: Rs. 3,74,53,801.00
 Amended counter claim Rs. 3,80,45,317.00 (subsequent claim of Rs. 5,91,516/- towards withdrawal of two more debit notes)

Status: M/s. Mittal Traders has filed its statement of accounts before the Arbitral Tribunal on 25.2.2006. The ld. Arbitrator has directed HPC to file detailed response to the said statement of accounts. HPC has also been permitted to file additional evidence by way of affidavit. In the application filed by HPC prayer was made to direct Mittal Traders to file their accounts alongwith their third party accounts. Although Mittal Traders filed their accounts they did not file third party accounts on the ground that no third party accounts were being maintained by them. Mittal Traders have constructed third party accounts thereafter and filed the same. **The arbitration has reached the stage of final evidence and at this belated stage the respondent has filed vide an application stating that the claim of HPC is barred by limitation on the ground that the transaction between HPC and Mittal Traders was not a running account having reciprocal demand between the parties. The counsel of Mittal Traders has made submission on the said application in the last sitting of the arbitration held on 9.10.2009. HPC's counsel shall give reply to the said application in the next sitting to be held on 23.10.2009.**

3. Delhi Paper Products (DPP) -vs-HPC

Dispute arose on account of non-payment of price of goods by M/s. DPP, ex-stockist, Delhi to HPC.

Arbitral Tribunal: Justice B.D. Agarwal (Retd)
 Date of award: 09.09.2001

Relief granted to DPP: (i) Rs. 34,88,557.80 plus interest @ 18 % per annum from 01.04.1996
(ii) Post dated cheques worth Rs. 44,92,782.20 issued by DPP to HPC in June-July 1996 discharged
(iii) Bank Guarantees worth Rs. 20.00 lakhs issued in favour of HPC also discharged

Relief granted to HPC: Sales tax liability and local transportation charges in respect of transaction worth Rs. 44,92,782.20 to be paid by DPP subject to production of documentary proof by HPC
HPC filed an application for setting aside the award before Hon'ble High Court of Delhi. DPP filed their objection.

Status: The case shall be fixed for final argument any day.

4. Hindustan Construction Co. (HCC) –vs- HPC

Disputes arose regarding issuance of material by HPC from store for construction of four units of 'C' type quarters at CPM and extension of time for completion of work by the Contractor

Arbitral Tribunal:	Sri Anil Biswas
Value of Contract:	Rs. 10.66 lakhs
Claim of HCC:	Rs. 8.50 lakhs
Counter claim of HPC	Rs. 4.43 lakhs
Relief granted to HCC:	Rs. 12,843.24
Relief granted to HPC:	Rs. 35,201.00

HCC challenged the award in the court. Order given to appoint fresh arbitrator.

Arbitral Tribunal:	Sri A. Mannan, CEO, NPPC
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Award passed on 20.11.2003 giving following reliefs:

To HCC:	Rs. 12,843.94
To HCC	Rs. 35,201.00.

Although one more claim for Rs. 3,23,448.11 was allowed, there was some ambiguity in the order passed while allowing the said claim. Interest and cost which are admissible to HPC have not been awarded.

Both HCC and HPC have challenged the award concerning their respective relief.

Status: HPC has received an order on 9.8.2008 passed by the Honourable Gauhati High Court remanding the matter to the Sole Arbitrator for adjudication. Sri H.N. Barua, GM (FDP) has been appointed Sole Arbitrator. In the last sitting held on 6.2.2009, HCC submitted their statement of claim. **The arbitrator has not yet fixed the next date of hearing.**

The Board in its 137th meeting held on 05.02.1996 had advised submission of the status of court cases in which monetary involvement exceeds Rs. 50.00 lakhs. The latest status of such court cases is given below:

B. COURT CASES

1) HPC-vs- Golden Newsprint Industries Pvt. Ltd (GNI) (Criminal Complaints)

Three criminal complaints filed against 8 dishonoured cheques valuing Rs. 1,08,68,231.25.

Date of filing Complaints: 27.1.2000

Forum: Chief Metropolitan Magistrate, New Delhi

Status: The matter was listed on 14.9.05 for appearance of the accused before the court. Since the summon sent to the accused for the said appearance has been returned back with the remark “office always remains closed”, the Honourable Court has ordered to issue fresh summons. Submission has been made on behalf of HPC that the accused is deliberately avoiding the process of the court and action be taken against the accused. HPC has filed its evidence by way of affidavit on 8.1.08. **All the cases are now fixed on 14.12.2009 for cross-examination of HPC’s witness.**

Suit filed against GNI for recovering the price of goods, interest, etc. and also for issuance of mandatory injunction directing GNI to submit ST-I forms.

Date of Filing : 16.8.2000
 Forum : High Court of Delhi
 HPC's claim : Rs. 6,39,16,479.00

Status :

In compliance with the direction of the Honourable Court HPC has filed the original ledgers and books of accounts and also the list of witnesses before the court on 29.11.2005. Evidence by way of affidavits in respect of witnesses of HPC has been prepared and filed to the court.

An application has been filed by HPC on 8.12.04 in the above suit with prayer to direct GNI to furnish ST-I forms to HPC. The Honourable Court has ordered issuance of notice on 9.12.04. Upon hearing both the parties the Honourable High Court passed an order directing M/s GNI to give the undisputed ST forms to HPC. In view of non-compliance of the above order HPC has filed a contempt petition against GNI and its directors on 27.5.2006. The said contempt petition was taken up for hearing on 21.3.2007. On the said date, Mr Ashok Kapoor, Director of GNI was present in the court. He stated that he shall make efforts to get the sales-tax forms from the ST Deptt. and prayed for 2-3 months time for this purpose. The above application was taken up for hearing by the Hon'ble Delhi High Court on 12.10.2007. GNI submitted on the said date that they are taking steps to furnish ST forms. The said submission has been recorded in the order sheet. On a request from HPC the Honourable Court observed that HPC may place a copy of the order before the Sales Tax Tribunal to seek adjournment. **On the last date of hearing on 6.4.2009, against GNI's submission that despite best efforts the ST Form could not be obtained by them, HPC's counsel submitted that GNI is not taking any positive steps to get the ST Form issued. The Honourable High Court after hearing the above, directed GNI to file a detailed affidavit mentioning therein the efforts made by GNI for collection of ST Forms from ST Department. In the affidavit filed GNI stated that they had already filed**

requisite application in the ST Deptt. But it is gathered that their files are missing. On an application filed by HPC the Honourable Court directed issuance of notice to ST Deptt. To appraise the Honourable Court the steps taken by GNI for procurement of ST Forms. The case is now posted to 4.11.2009 for further hearing. Appeals were filed by HPC before Additional Commissioner – III, ST Department against assessment orders in respect of financial years 1997-98, 1998-99 and 1999-2000. The Additional Commissioner – III, ST Department, Delhi after hearing the said appeals passed the orders to the effect that (i) in respect of financial year 1997-98 appeal shall be entertained subject to deposit of Rs. 20.00 lakhs in cash and Rs. 68.50 lakhs by way of BG; (ii) in respect of financial year 1998-99 HPC to deposit a sum of Rs. 25.00 lakhs in cash and Rs. 80.59 lakhs by BG and (iii) in respect of 1999-2000 to deposit a sum of Rs. 6.00 lakhs in cash and Rs. 30.27 lakhs by BG. HPC has filed appeals against the above orders before the Sales Tax Tribunal.

Payment of the amount ordered by the Commissioner has been kept in abeyance. The next date of hearing has been fixed on 23.11.2009. As stated at pre-page in compliance with the direction of the Honourable High Court ST Deptt. shall appraise the Honourable Court about the steps taken by GNI for procurement of ST Forms.

2) Golden Newsprint Industries Pvt. Ltd.(GNI) –vs- HPC

Suit filed against HPC alleging short supply of goods, supply of damaged goods, credit notes etc., and for a direction against HPC for return of cheques worth Rs. 2.10 crores.

Date of filing	: 04.2.2000
Forum	: High Court of Delhi
GNI's Claim	: Rs. 149.00 lakhs

Status : HPC is contesting the suit. **The suit is now posted to 4.11.2009 in view of the developments in the suit filed by HPC against GNI.**

3) HPC –vs- Chawla Bros.(CB)

Suit filed for recovering HPC's dues towards unsettled insurance claims due to absence of shortage certificates, wrongful direct supplies to the stockists, loss suffered on account of delayed invoicing etc.

Forum: Delhi High Court

HPC's Claim: Rs. 1,03,75,861.00

Status: **The case has been posted to 10.11.2009 for hearing.**

4) Chawla Bros.(CB) –vs- HPC

Suit filed against HPC alleging non-payment of service charges, security deposit, interest, costs etc.

Forum: High Court of Delhi

Date of filing suit: 17.4.2000

CB's Claim: Rs. 59,62,177.61

Status: **The case is posted to 10.11..2009 along with the connected suit.**

5) HPC –vs- Diamond Copy House (DCH) and its third parties.

Seventy-one (71) suits filed by HPC against DCH and its 76 third parties for recovering the price of goods supplied to them, interest, etc.

Date of filing suits: Between 25.11.2000 and 24.12.2000. In January 2003, as per advice of CBI, applications filed for amending the plaints of all the suits for (i) impleading seven employees of DCH as parties and (ii) inclusion of averment regarding allowing lifting of materials against three credit notes by Sri V.K. Govil although amount of the said credit notes has already been adjusted earlier.

Forum: Civil Courts, Chandigarh

HPC's claim: Rs 494.87 lakhs

Status: HPC has filed the amendment applications enhancing/reducing the claim in respect of 5 (five) third party suits because of detection of

accounting errors subsequent to filing of the said suits. HPC has also filed an application before the court seeking direction to CBI to produce the original stockistship agreement dated 28.9.95 executed between HPC and M/s. DCH, original supplementary agreement dated 28.9.95 in respect of 3rd party transaction and original letter dated 22.6.2000 addressed to HPC by M/s. DCH. The suit filed against Oriental Copy Manufacturer has been decreed on 27.3.2008 in favour of HPC and against the said third party only for Rs. 38,621.06 although prayer was made by HPC to pass decree jointly and severally against all the defendants. As no decree has been passed against Diamond Copy House, i.e., the stockist, an appeal has been filed. **The said appeal has now been fixed for final hearing on 3.8.09. In 7 third party suits the evidence of HPC, DCH and its third parties has been completed. The said suits are posted to different dates for arguments. In 28 third party suits evidence of HPC and DCH has been completed. The said suits are now posted for evidence of third parties. In 12 third party suits HPC's evidence has been completed and the said suits are fixed for evidence by all the defendants. The balance third party suits have been fixed on different dates for cross-examination and framing of issues. The main suit against DCH is fixed on 28.7.2009 for cross examination of HPC's witness.**

Shri K G Deb Krori, Director HPC Board and Member of the Committee constituted by HPC Board to explore the possibility of out of court settlement in respect of pending cases held discussions with Shri H P Singh, Partner and two other representatives of DCH at Chandigarh on 10.5.2008 and on 22.8.2008. The representatives of DCH during the above meeting expressed their willingness for an out of court settlement in respect of the suits filed against DCH and its 76 third parties by HPC. After detailed discussions DCH finally vide their letter dated

23.8.2008 has offered to settle the cases out of the court on the following terms and conditions :

1. 1st instalment of Rs. 40.00 lakhs shall be paid within 4 weeks on receipt of HPC's acceptance to their offer. DCH has also requested to revive their stockistship as per terms and conditions admissible on receipt of 1st instalment of Rs. 40.00 lakhs.
2. 2nd instalment of Rs. 20.00 lakhs shall be paid at the end of 3 months from the date of payment of 1st instalment.
3. 3rd instalment of Rs. 15.00 lakhs shall be paid at the end of 6 months from the date of payment of 1st instalment.
4. In addition to above, the incentive that will be accrued from the beginning shall continue to be adjusted. If any amount still remains outstanding at the end of 12 months from the date of payment of 1st instalment, the same shall be paid within 7 days from the date of 12 months.
5. They have also requested to withdraw the court cases after payment of Rs. 155.00 lakhs.
6. Regarding Sales Tax form they have assured that they will fully co-operate with HPC in the matter.

A note has been put up to the Competent Authority for consideration of the above offer. **The Sales Tax liability in respect of DCH for the periods 1998-99 & 1999-2000 along with 2% interest works out to be Rs. 151.69 lakhs (Rs. 92.42 lakhs for 1998-99 and Rs. 59.27 lakhs for 1999-2000).**

6) Ashok Kumar Saboo & Anr. -vs- HPC

Ashok Kumar Saboo, proprietor of Rahul Enterprise and Durga Trading Company, Bamboo supplier at NPM filed a writ petition challenging letter dated 21.6.2005 issued by DGM (Forest), NPM imposing liquidated damages of Rs. 112.68 lakhs on account of failure of the contractor to supply the minimum permissible quantity of bamboo as per work order No. NPM/FOR/21/2002-04/ 02 dated 30.8.2002.

Forum:	High Court of Calcutta
Date of filing:	July, 2005.
Claim of A.K. Saboo:	Rs. 112.68 lakhs
8.9.2005	The writ petition was dismissed due to lack of jurisdiction.
10/2005	The contractor filed appeal before the Division Bench.
10.4.2007.	The Division Bench ordered that Calcutta High Court has territorial jurisdiction to entertain the case and dispose of the present writ petition.
18.9.2007	HPC filed SLP before the Supreme Court of India against above order of the Division Bench.
7.1.2008	SLP admitted. Notice has been issued. SLP listed. Leave granted to HPC.
20.4.09	Shri Ashok Kumar Saboo filed an application before the Honourable Supreme Court seeking direction to the Calcutta High Court for proceeding ahead with the writ petition. The Honourable Supreme Court directed HPC to file reply. HPC filed its reply.
10.8.2009	The Honourable Supreme Court agreed with the submission made by HPC's counsel and directed to transfer the writ petition from Calcutta High Court to Gauhati High Court.

7) HPC -vs- M/s S.R. Supplier & 5 Others

HPC has filed 6 suits in March, 2007 before the Court of Civil Judge, Morigaon, Assam for recovering an aggregate sum of Rs. 7,16,48,254/- together with interest up to the date of filing of the suit (principal Rs. 5,67,69,830.00 & interest Rs. 1,48,78,424.00) from the above contractors towards risk purchase made by it due to their default in supplying Meghalaya Coal to Nagaon Paper Mill. As the above contractors viz. (i) S.R. Supplier, (ii) Suklang Enterprise, (iii) M N Enterprise, (iv) FW Enterprise, (v) North-Eastern Trade International and (vi) Pashupati Enterprise had failed to supply the ordered quantity, HPC had to procure the balance quantity at a much higher price. HPC has claimed the difference in the rate of procurement of coal in the above suits. The party-wise break up of the claim is (i) SR Supplier : Rs. 82,99,572.00, (ii) Suklang Enterprise : Rs. 44,77,225.00, (iii) M N Enterprise : Rs. 38,09,635.00, (iv) FW Enterprise : Rs. 82,85,970.00, (v) North-

Eastern Trade International : Rs. 4,10,16,792.00 and (vi) Pashupati Enterprise : Rs. 57,59,060.00.

Status HPC has filed its evidence. The above cases have been posted to different dates for cross-examination of the witnesses.

The above suppliers have made an appeal vide their letter dated 3.8.2007 proposing for an out of court settlement. After considering their request the Competent Authority vide order dated 23.10.2007 has constituted a committee comprising Senior Manager (Commercial), CHQ, Senior Manager (Finance) NPM and Manager (Legal), CHQ to examine the matter and submit their report. The said committee met the suppliers on 17.1.2008 and advised them to give their offer. The offer given by the suppliers vide letter dated 18.1.08 being not acceptable a letter has been issued on 26.2.08 with the approval of the Competent Authority advising them to give a revised offer compensating the loss suffered by HPC substantially. The suppliers vide their letter dated 15.3.2008 (received on 7.4.08) have stated that the offer given by them earlier to forego 50% of the Security Deposit, i.e. Rs. 2.5 lakhs is a very good offer and they are not liable to pay any compensation to HPC. The above offer being not acceptable HPC vide its letter dated 18.7.2008 advised the above suppliers to give an improved offer considering the loss suffered by HPC besides sacrificing the entire amount of security deposit. The suppliers vide their letter dated 28.8.2008 have given a fresh proposal that they are agreeable to sacrifice the entire security deposit of Rs. 5.00 lakhs each in order to arrive at a settlement out of court. **The above proposal has been put up to the Competent Authority for consideration.**

8) HPC –vs- M/s Durga Trading & Others

HPC filed seven suits in August, 2005 before the Court of Civil Judge (Sr. Division), Morigaon, Assam for recovering an aggregate sum of Rs. 3,23,15,891 togetherwith interest up to the date of filing of the suit from the contractors viz. (i) Durga Trading, (ii) Bamboo Bagicha, (iii) India Bamboo, (iv) Bharat Bamboo, (v) Janata Bamboo, (vi) Subodh Enterprise and (vii) Kalpataru Agro Forest. As the said contractors failed to supply the ordered quantity, HPC had to procure the balance quantity at a much higher

price. The party-wise break up of the claim and the amount withheld/adjusted by HPC from their bills is given below

Sl.No.	Name of the party	Claim of HPC	Amount withheld/adjusted by HPC	Counter claim of the party
1.	Durga Trading & Others	1,45,84,746.00	1,12,68,000.00	51,76,350.00
2.	Bamboo Bagicha	37,95,996.00	2,00,000.00	4,20,346.00
3.	India Bamboo	40,22,868.00	2,00,000.00	4,15,340.00
4.	Bharat Bamboo	21,14,184.00	-	81,18,193.00
5.	Janata Bamboo	40,25,080.00	2,00,000.00	2,46,750.00
6.	Subodh Enterprise	20,51,072.00	2,00,000.00	-
7.	Kalpataru Agro Forest	17,21,945.00	18,83,000.00	-

All the above suits are in evidence stage. The Advocate dealing with the above cases has been reporting for quite some time that the documents required to substantiate HPC's claim are not available. In some cases, only photocopies are available which can not be relied upon in the evidence. The steps, viz, sending of notice, termination of contract, etc., required to be taken prior to filing of suit and resorting to risk purchase had not been taken. The proposal dated 2.12.2008 given by NPM for an out of court settlement was put up to the Competent Authority. The Competent Authority after considering the said proposal advised to wait for another five to six months before the issue is looked into in totality. The said proposal shall be put up again.

OTHER IMPORTANT COURT CASES

It is submitted that apart from above cases there are certain other cases which are important and therefore brought to the kind notice of the Board with the latest status:

- 1) HPC –vs- Brothers International, Dhaka & Others
(Calcutta High Court & City Civil Court, Calcutta)

HPC filed 8 suits in January 97 for recovering an aggregate sum of Rs. 65,08,094/-together with interest towards the value of paper exported to eight buyers in Bangladesh during December 1995 and January 1996. Summons in one suit i.e. against M/S Islam Paper & Co were served

and the suit was posted to 04.04.2002 for ex-parte hearing. The summons in the remaining 7 suits could not be served since 1997 because they are not available at the recorded addresses. In 1998 HPC engaged the services of an Investigating Agency which also could not give any useful information regarding the addresses of the parties. Subsequently Solicitors also made efforts to get the summons served through court but they did not succeed. In the suit filed against Islam Paper & Co. DGM (Sales) gave evidence and the suit was heard ex-parte on 04.04.2002. After hearing the Hon'ble Court has passed a decree in favour of HPC on 04.04.2002 for a sum of Rs. 3,23,080/-. The Court has directed the defendant to make payment of the said sum to HPC within two months from the date of the order failing which HPC will be at liberty to get the decree executed. It has also been ordered that HPC will be entitled to get interest at the rate of 10% till realisation of the full amount. On an application filed by HPC for transferring the decree to the Civil Court at Dhaka for execution the Hon'ble Court has handed over the certified copy of the decree to the Advocate of HPC for necessary action by HPC. HPC is making arrangement for filing execution proceeding at Civil Court, Dhaka through the Agency purchasing paper for Bangladesh from HPC.

2) Asim Kumar Pal –vs- HPC (Calcutta High Court)

Shri Asim Kumar Pal, Office Superintendent who was handling stationary purchase in HR&ES deptt., CHQ was caught red handed by CBI officials while accepting illegal gratification of Rs. 3,000/- from M/s Samudra Intercorp, Kolkata. He was taken into custody by CBI officials and was placed under deemed suspension as per HPC CDA Rules. Since the prosecution failed to establish the charges the Honourable Court ordered acquittal of Shri Pal from the said case on 17.2.2004.

Shri Pal filed 3 writ petitions before Calcutta High Court challenging (i) continuance of suspension after acquittal, (ii) initiation of disciplinary proceedings departmentally and (iii) non-payment of 25% back wages for the suspension period. The Honourable High Court has disposed of the first and 2nd writ petitions directing to withdraw suspension and not to proceed with the departmental proceedings. Against the order passed in the 3rd writ petition to release all the admissible benefits, HPC communicated that no further benefit/allowances are admissible.

Status : **On the request of Shri Paul Competent Authority has approved for settlement of the case out side the Court. Accordingly an agreement towards out of Court settlement has been entered into between HPC**

and Shri Paul on 6.10.2009 wherein in consideration of HPC making the payment towards balance 25% ay and allowances for the period of suspension and matching contribution to PF Shri Paul has agreed to withdraw the two writ petitions filed by him against HPC. The said agreement shall be submitted to the Court as and when the writ petitions shall be listed for hearing with prayer to dismiss the said writ petitions as settled out side the court. Both HPC and Shri Paul has instructed their respective Advocates to act accordingly.

3) HPC -vs- Bhupendra Kumar Dutta

Shri B K Dutta, Forest Supervisor, Grade - II, Cachar Paper Mill was dismissed from the services of HPC on 11th October, 1988 on the basis of the findings of the Inquiry Officer. Since a reference was pending HPC filed an application under section 33(2)(b) before the Industrial Tribunal, Silchar.

- 15.11.1999 Award passed by the Tribunal directing HPC to reinstate Shri Dutta immediately and to pay him all back wages and other benefits as per rule.
- 22.2.2000 HPC filed a writ petition before the Gauhati High Court challenging the above award with a prayer to stay operation of the award.
- 2.3.2000 The Honourable High Court suspended the operation of the award subject to payment of salary under section 17 (b) of ID Act.
- 18.9.2006 The Honourable Gauhati High Court passed order declining to interfere with the award dated 15.11.1999. Direction given to HPC to reinstate Shri Dutta and pay him the consequential back wages.
- 31.10.2006 HPC filed an appeal before the Division Bench, Gauhati High Court against the order of the Single Bench.
- 18.12.2006 The Division Bench passed an interim stay subject to HPC's depositing the arrears, if any to Shri Dutta within 4 weeks. It was also held that Shri Dutta shall be permitted to withdraw the amount so deposited without furnishing any security.
- 17.1.2007 HPC filed an application before the Division Bench for recalling/modification of the order dated 18.12.2006 with prayer to direct HPC to furnish bank guarantee

for the entire claim, or in the alternative, to direct Shri Dutta to furnish bank guarantee as security.

- 31.1.2007 The application is disposed off modifying the order dated 18.12.2006 to the extent that Shri Dutta will be entitled to withdrawn 25% of the amount deposited without furnishing bond and 25% of the amount on execution of bond. The total amount shall be deposited by HPC before the Registry within one month.
- 28.2.2007 HPC has filed SLP before the Supreme Court praying stay of the orders dated 18.12.2006 and 31.1.2007 on the ground that Shri Dutta has already retired from service and in the event HPC succeeds in the appeal it will be difficult to recover the 50% of the back wages from Shri Dutta (approx. Rs. 9.00 lakhs) and that as per the decision of the Honourable Supreme Court there is no rule of thumb that in each and every case where the Industrial Tribunal records a finding that the order of termination of service was illegal that an employee is entitled to full back wages. It was also held by the Honourable Supreme Court that payment of back wages is not a natural consequence of setting aside order of dismissal.
- 2.4.2007 The SLP was taken up for hearing. As the order passed by Division Bench, Gauhati High Court was interim in nature, the Honourable Supreme Court declined to interfere with the said order. However, request was made to the Honourable Division Bench of Gauhati High Court to dispose off the writ appeal within a period of 3 months. The writ appeal shall be listed for hearing any day.

4) Cachar Paper Project Workers Union -vs- HPC

Cachar Paper Project Workers Union filed a writ petition being WP (C) no. 3602 of 2001 before the High Court of Gauhati with prayer to make payment of Local Travelling Expenses (LTE) @ Rs. 10/- per day to the workmen on actual attendance as per clause 9.1 of the Memorandum of Settlement dated 24.4.2001. Though the above LTE was not admissible to the workmen who avail company bus facility, the Finance deptt. of CPM had erroneously made the above payment of LTE to the said workmen for the month of April, 2001. A circular was issued by the then AGM (P&A) on 11.5.2001 clarifying the position in clause 11.1 that the workmen who get reimbursement of expenses for vehicle and workmen who avail bus facility either on subsidized rate or free of cost will not be entitled for this reimbursement. The Workers Union challenged the aforesaid circular by filing the above writ petition and prayed stay of operation of the said circular.

Status: The Honourable High Court directed HPC vide order dated 24.5.2001 not to give effect to the circular dated 11.5.2001 until further order. Upon contest by HPC, the said stay order was vacated by an order dated 23.7.2001. HPC filed its opposition thereafter. After hearing the petition on merit the Honourable High Court by an order dated 17.8.06 has set aside the paragraph 11.1 of the circular dated 11.5.2001 issued by the then AGM (P&A) with the direction that benefit as would be due to the employees will now be conferred to them. HPC had filed an appeal before the Division Bench of Honourable Gauhati High Court against the above order dated 24.5.2001. The Honourable High Court after hearing both the parties passed an order on 25.9.2006 staying operation of the above order. The case is to be listed for hearing.

5) HPC –vs- The State of Assam and Assam State Agricultural Marketing Board

A Show-cause notice dated 10.8.2007 was issued to H PC, CPM by Secretary, Hailakandi District Regulated Market Committee for non-submission of return as per Rule 23(i) of Assam Agricultural Produce Market Rule 1975. As per the said rule every licensed dealer shall submit to the committee a return in form-M showing his purchases and sales of each transaction of Agricultural Produce within 4 days from the date of transaction.

6.9.2007 A reply was given by DGM (Fin), CPM stating that HPC being a wholly owned Government Company it is not a ‘trader’ as defined in section 2 of the Act and is exempted.

17.11.2007 A notice was issued to HPC CPM to appear in person or by an authorized agent on 5.12.2007 before the Chairman, Hailakandi District Regulated Market Committee and to show cause for non submission of return for the period from 1.4.2000 to 31.10.2007 and why in addition to the market fee on the basis of the assessment a penalty prescribed under rule should not be levied.

- 4.12.2007 Reply was given by HPC to send the list of documents required to be submitted. It was also intimated that the matter has been taken up with the appropriate authority and HPC may be exempted from appearance on 5.12.2007.
- 29.1.2008 Chairman, Hailakandi District Regulated Market Committee issued a demand notice directing HPC to pay a sum of Rs. 3,01,14,583.00 towards market fee calculated @ 1% on the assessed value of business of Rs. 301,14,58,333.00 on or before 11.2.2008.
- 13.2.2008 HPC filed a writ petition before the Honourable Guwahati High Court with prayer to set aside and quash the demand notice dated 29.1.2008 and pending disposal of the writ petition to pass an interim order staying the said demand notice. The grounds taken in the writ petition are that (i) HPC being a Government Company the provisions of the Act does not apply, (ii) HPC extracts bamboo from the forest land taken on lease from the Government/District Council for which royalty is being paid and no sale and purchase takes place, (iii) HPC also procures bamboo from other States on the basis of inter-state sale which does not take place within the notified market area. Upon hearing both the parties the Hon'ble Gauhati High Court ordered notice. The case is to be listed for hearing.
- 10.9.2008 Secretary, Morigaon District Regulatory Market Committee, has sent three demand notices all dated 10.9.2008 directing HPC to pay a sum of Rs. 61,66,955 for the year 2005-06, Rs. 62,17,198/- for the year 2006-07 and Rs. 43,82,913/- for the year 2007-08. The above market fee has been charged @ 1% of the assessed value of business for the respective year. By the said notice HPC was directed to pay the above amount on or before 22.9.2008. Three writ petitions were filed by HPC before the Hon'ble Gauhati High Court challenging the legality of imposition of the above fee by 22.9.2008.
- 26.9.2008 The above writ petitions were disposed of directing the Market Committee not to enforce the aforesaid demand notices on condition that HPC would deposit an amount of Rs. 75.00 lakhs within two weeks. The court also directed that upon such deposit the Distt. Regulatory Market Committee shall offer an opportunity to HPC to establish either wholly or partly the sustainability of the demand notices.
- Oct. 2008 HPC filed four SLPs challenging the legality of the judgement dated 26.9.2008.
- 16.12.2008 Stay has been granted.

- 13.2.2009 The Hon'ble Supreme Court expressed the view that both the parties may explore the possibility of the settlement outside the court. Accordingly, counsels of both the parties held discussions but failed to come to a solution.
- 13.8.2009 The counsel of the Marketing Board submitted to court that one more meeting between the Officers of HPC and the State of Assam should be held.
- 27.8.2009 Meeting held at the Supreme Court premises between the Officers of HPC and the State of Assam in presence of the counsels. As the Officers of the State Government was insisting to deposit the amount of Rs. 700 lakhs first as ordered by the Gauhati High Court it was decided to hold another meeting at Gauhati.
- 13.9.2009 Meeting held at Gauhati. Despite request made by HPC's counsel to the Officers of State Government not to make deposit of money condition precedent for discussions, the Officers of State Government continued to insist deposit of money. Hence, no solution could be arrived at in the said meeting also.
- 19.10.2009 The Honourable Supreme Court after hearing both the parties referred the matter to the High Power Committee to arrive at a mutual settlement within two months. In the event either party is not satisfied with the decision of the Committee they may approach the Supreme Court again. All the five demand notices have been stayed.**
- 6) The State of Assam –vs- Chhotabhai Jethabhai Patel Tobacco Products Co. Ltd., HPC & Others
- 1.10.2001 State of Assam enacted the Assam Entry-tax Act 2001 levying entry tax on entry of goods specified in the schedule of the Act into a 'local area'. There were only 7 entries in the Schedule of the Act when the Act was originally passed, but later this list was expanded to 58 entries through amendments and notifications. Though the original Assam Entry Tax Act, 2001 was passed with the prior sanction of the President, the later Amended Acts were enacted without the prior consent of the President. As per the Scheme of the Act, entry tax is levied on scheduled goods manufactured inside the State of Assam as well as goods coming from outside Assam in as much as it does not discriminate between locally manufactured goods and goods coming from outside Assam. The objective of the Act is to spend the proceeds of entry tax for the purpose of development of trading facilities, maintenance of roads and other infrastructure facilities in the local area.

- 2006-07 A number of writ petitions were filed by various companies including HPC before the Guwahati High Court challenging the legality and validity of the Act and various modifications issued by the Government of Assam in exercise of power conferred under the Act on the ground of having direct impediment on freedom of movement of goods guaranteed under Article 301 of the Constitution of India.
- 17.11.2006 The Single Bench passed an order holding that the Assam Entry Tax Act, 2001 will have direct and immediate effect on inter-state movement of goods and hence it attracts Articles 301 and 304 of Constitution of India. Since the entry tax under the Assam Entry Tax Act, 2001 will be in one form or the other a restriction on inter-state trade and commerce, no amendment of the Act will be valid unless the same is done with a previous sanction of the President of India.
- 2006 Being aggrieved by the above order a writ appeal being no. 462/2006 was preferred by the State of Assam before the Division Bench of Gauhati High Court against the aforesaid judgement and order.
- 30.8.2007 The Honourable Guwahati High Court disposed of all the 133 writ petitions/writ appeals by passing a common judgement and order quashing the Assam Entry Tax Act 2001 in its original form and amended form.
- 27.11.2007 State of Assam has filed a Special Leave Petition before the Supreme Court of India seeking special leave to appeal against the aforesaid order and also with prayer to grant ex-parte ad-interim stay of the above common final judgement dated August 30, 2007 in the form of interim relief.
- 22.1.2008 Honourable Supreme Court ordered notice on interim application and directed the matter for listing after 4 weeks.
- March 2008 The Hon'ble Supreme Court after hearing referred the matter to the larger Bench for further hearing.
- 31.3.2008 During pendency of the above SLP the Assam State Legislature enacted Assam Entry Tax Act, 2008. The Preamble of the Act provides that the said act has been enacted to levy a tax on the entry of goods into any local area in Assam for consumption, use or sale therein for the purpose of providing infrastructure and amenities to facilitate trade and commerce within the State of Assam.
- May 2008 HPC filed writ petition before the Hon'ble Gauhati High Court challenging the provisions of the Assam Entry Tax Act, 2008.
- 17.6.2008 The Hon'ble High Court after hearing both the parties passed an interim order with the observation that though HPC no doubt has demonstrated a prima facie case but the issue

requires a deeper examination of the matter and to restrain the state from collecting tax on such a prima facie satisfaction is not justified. The Hon'ble Court having regard to the above directed the State of Assam to maintain a separate account of all the amounts collected from HPC without appropriating the same to the general revenue of the state until further orders.

- 3.7.2008 HPC filed an SLP with prayer to stay the above interim order of the Division Bench. The Supreme Court after hearing the submission dismissed the said SLP in view of the pendency of the matter in the High Court. However, request was made to the High Court to hear the matter on the next date fixed since an earlier action has been struck down and large amounts are required to be paid by way of refunds.
- 28.8.2008 As advised by the Senior Counsel HPC has deposited a sum of Rs. 36.00 lakhs both for NPM and CPM for the month of June 2008 under protest and without prejudice in compliance with the above order.
- 09.1.2009 The Hon'ble High Court passed order holding that the Assam Entry Tax Act is valid and constitutional.
- 4.2009 HPC filed two SLPs before the Honourable Supreme Court challenging the legality of the order dated 9.1.2009 passed by Honourable Gauhati High Court.
- 12.5.2009 The aforesaid SLPs were listed for hearing. The Honourable Court admitted the said SLPs and ordered issuance of notice.
- 7) HPC –vs- Kishore Kumar Bhattacharjee
- 6.9.1990 It was alleged that Shri Kishore Kumar Bhattacharjee organized and actively took part in a violent demonstration in front of the Administrative Building at CPM.
- 6.10.1990 Shri Bhattacharjee was suspended for behaving in a violent manner and for using indecent and provocative language against Senior GM-cum-CE and others and for causing damage to the properties of the Corporation.
- 11.10.1990 A Memorandum was issued leveling charges of riotous, disorderly and indecent behaviour and commission of act subversive of discipline.
- 12.11.1990 Shri Bhattacharjee submitted his written statement of defence denying the charges.
- 26.2.1991 Shri D. Sen, Solicitor & Advocate, Calcutta was appointed Enquiry Officer to enquire into the charges.
- 6.3.1991 Enquiry Officer issued notice fixing the first sitting of the enquiry on 22.3.91 at CPM.

- 3.5.1991 A reference u/s 10 of the ID Act was made to the Industrial Tribunal, Silchar with regard to the validity of the aforesaid suspension on the ground that Sri Bhattacharjee was a workman.
- 13.6.1991 Since Shri Bhattacharjee did not attend the enquiry on 22.3.1991 and 11.6.1991 despite issuance of notice, a letter was issued by the Enquiry Officer calling upon him to attend the enquiry at 2.30 p.m. on 13.6.1991. It was also stated that in case of his failure to attend, the enquiry would proceed ex-parte. However, Shri Bhattacharjee did not attend and the enquiry was held ex-parte.
- 20.6.1991 The Enquiry Officer submitted his report holding Shri Bhattacharjee guilty of all the charges leveled against him.
- 24.6.1991 Shri Bhattacharjee was removed from the services of the Corporation with immediate effect vide order issued by Senior GM –cum- CE.
- 24.4.1992 A further reference u/s 10 of the ID Act was made to the Industrial Tribunal as to the validity of the removal order of Shri Bhattacharjee.
- 10.8.2001 Industrial Tribunal passed an award directing HPC to reinstate Shri Bhattacharjee and pay all back wages.
- 10/2001 HPC filed a Writ Petition before the Gauhati High Court challenging the legality of the award.
- 29.10.2001 The Hon'ble High Court suspended the operation of the award with direction to HPC to pay wages u/s 17(B) of the ID Act.
- 31.1.2008 The Hon'ble High Court passed order in favour of Shri Bhattacharjee on a technical ground and not on merit. It was observed that prior to the removal Shri Bhattacharjee went to Industrial Tribunal. The Court was of the view that since an earlier reference was pending, approval of the Industrial Tribunal was necessary before removal of Shri Bhattacharjee. The order was thus held to be null and void in view of the decision of the Hon'ble Supreme Court in the case of Jaipur Zilla Sahakari Bhumi Vikash Bank Ltd. –vs- Ram Gopal Sharma & Ors. It was in the above backdrop the Hon'ble High Court did not go into the merit of the case and declined to interfere with the award dated 10.8.2001 passed by the Presiding Officer, Industrial Tribunal, Silchar.
- 25.2.2008 HPC accepted the above order of the Hon'ble High Court and issued letter to Shri Bhattacharjee to report for duty at CPM in compliance with the above order.
- 5.3.2008 Shri Bhattacharjee reported for duty at CPM.
- 11.4.2008 As advised an appeal has been filed before the Division Bench, Honourable Gauhati High Court challenging the legality and validity of the order dated 31.1.2008 passed by

the Single Bench. Since there was a delay of 41 days in filing the appeal, an application has been filed for condonation of the said delay.

- 25.5.2009 Condonation application was taken up for hearing. The Honourable Court ordered issuance of notice returnable within 4 weeks. The appeal may be taken up for hearing on the day condonation application shall be allowed.
- 20.10.2009 The case was taken up for hearing. The Counsel of Shri Bhattacharjee sought time to file reply to the condonation application of HPC. The Honourable Court has given 4 weeks time for filing such reply and the case shall be taken up for hearing thereafter.**
- 8) HPC –vs- State of Assam, HPC Co-operative Consumer Society Ltd. & Hindustan Kagaj Nigam Contractual Shramik Union, NPM
- 28.6.1996 The Contract Labour Union viz. Hindustan Kagaj Nigam Contractual Shramik Union, NPM representing labourers supplied by the HPC Co-operative Society had submitted representation to the Labour Commissioner, Govt. of Assam for taking necessary action prohibiting engagement of contract labour at NPM.
- 5.3.1997 ALC submitted report to the LC to take up the matter with the appropriate authority regarding prohibition of contract labour so that contract labourers are absorbed in a phased manner.
- 26.7.1999 The Shramik Union filed a Writ Petition before the Hon'ble Gauhati High Court with prayer to direct Govt. of Assam to exercise their power u/s 10 of CLRA Act, 1970 and also to direct HPC to absorb the contract labour and to pay them equal wages as was being paid to the regular employees of the principal employer on the ground that the contract labour were performing the same nature of job.
- 3.9.1999 HPC filed its opposition disputing the maintainability of the writ petition in view of the pendency of the matter before the Labour Commissioner. It was also stated that the Society was having valid licence for supplying contract labour and that the job being performed was not perennial in nature and not directly related to the manufacturing process of the Company and also that CLRA Act, 1970 permits the employment of contract labour in any industry unless such employment is prohibited by a notification u/s 10 of the Act.
- 22.8.2006 The Hon'ble High Court disposed of the above writ petition with direction that the petitioners may approach the Competent Authority for abolition of contract labour at NPM, HPC may undertake an exercise in the matter and prepare scheme considering its

requirement for additional man power and the Govt. of Assam to examine the question whether the petitioners are performing the same or similar nature of job and whether under the relevant rules and guidelines they are entitled to equal wages as being paid to the regular employees within six months.

- 6.4.2007 Additional Labour Commissioner conducted an enquiry at NPM without involving the representative of management.
- 3.5.2007 The Enquiry Officer submitted his report to the Labour Commissioner holding that duties, functions, workload, energy and nature of jobs of the two sets of workers at NPM are parallelly equal leaving no distinction behind to infer.
- 8.6.2007 Labour Commissioner, Assam forwarded the above report to CE, NPM for information and necessary action.
- 28.6.2007 HPC submitted its objection pointing out the infirmities in the report.
- 22.6.2007 Labour Commissioner addressed a letter to GM, NPM (received at NPM on 6.7.2007) in continuation to his letter dated 8.6.2007 requesting to provide similar wages, hours of work, holidays, leave and other benefits to persons performing similar nature of work and submit a compliance report.
- 27.7.2007 HPC filed a writ petition before the Hon'ble Gauhati High Court with prayer to set aside the memo dated 22.6.2007 and not to give effect to the enquiry report dated 6.4/11.4.2007.
- 18.9.2008 The Hon'ble High Court ordered notice and directed to maintain status quo. The case is to be listed for hearing.

9) HPC –vs- Kagajkal Thikkadar Sramik Union

In 1992 the Union filed a representation before the Labour Authorities, Assam claiming equal wages to the Finishers at CPM engaged through contractor at par with the wages payable to the regular Finishers. The Assistant Labour Commissioner visited CPM in July 1994 and submitted report as to the nature of the job being performed by the contract labourers and the regular employees. The Labour Commissioner after examining the said report passed an interim order on 03.02.1995 directing the existing condition of wages and other facilities to continue till further evaluation and the final settlement is arrived in regard thereto. Thereupon, the union filed Writ Petition No. 1359/1995 before the Gauhati High Court which was dismissed. The Union filed a Writ Appeal being No. 195/1996 before the Division Bench, Gauhati High Court. Gauhati

High Court vide judgement dated 1.8.2000 directed HPC to implement equal pay and other benefits to the Finishers engaged through contractor at par with regular employees as per Rule 25(v)(b) of Assam Contract Labour Rules. HPC filed a Special Leave Petition being No. 19743/2000 before the Honourable Supreme Court. Mr Harish Salve, the then Solicitor General of India appeared on behalf of HPC at the time of admission and Hon'ble Supreme Court initially ordered notice and subsequently vide order dated 14.12.2001 admitted the SLP. The said SLP was heard on 5.12.2007 and the Hon'ble Supreme Court passed an order on the said date setting aside the order passed by the Division Bench Gauhati High Court. The Hon'ble Supreme Court also directed the Labour Commissioner, Assam to decide the issue raised by the union by way of representation de hors to the observation made by the Division Bench and pass an order within a period of three months from the date of receipt of copy of the judgment after affording opportunity to both parties.

Status: In pursuance of the above order of the Hon'ble Supreme Court, Labour Commissioner, Assam held joint discussions with HPC officials and the union at Guwahati on 3.6.2008 for resolution of the issue. Since the issue could not be resolved in the said discussion Labour Commissioner visited CPM on 24.6.2008 for making enquiry. The representatives of HPC and the union were present during the said enquiry. Both the parties have presented their case before the Labour Commissioner in course of the said enquiry. The Labour Commissioner, Assam gave his report on 19.7.2008 recording his findings that the contract labours of CPM were paid the daily unskilled wage rate and other benefits as per the notification of LC, Assam No. LD11/91/17/177 dated 12.11.1991 released within sub-rule 2(v)(a) of Rule 25 of the Contract Labour (R&A) Assam Rules, 1971. The Labour Commissioner also expressed the view that the rate of wages paid to the Contract Labours by the Contractors of CPM were statutorily found to be in order. The above report was forwarded under covering letter dated 18.9.2008 with instruction to comply with the provisions under rule 25(v)(a) of the Contract Labour (R&A) Assam Rules, 1971. The Kagajkal Thikadar Sramik Union raised an industrial dispute with ALC, Silchar vide their letter dated 2.12.2008 alleging non payment of similar

wages. HPC gave reply to ALC on 13.2.2009 disputing the contention of the union.

10) Hindustan Kagaj Nigam Shramik Union, NPM –vs- HPC (HKNSU)

HKNSU representing the contract labour engaged by Co-operative Society filed a writ petition challenging publication of NIT by NPM for supply of contract labour as the earlier contract period was over.

Status: The Hon'ble High Court passed an interim order that HPC may proceed with the NIT but shall not issue any final order.

11) HPC –vs- Bendangkokba & Anr. (D.B Gauhati High Court – (Kohima Bench)

B. Long Kumer, President Workers' Union of NPPC filed a writ petition before the High Court of Gauhati (Kohima Bench) with prayer to direct UoI & HPC the respondents to allow and release pay revision with all other emoluments, benefits, allowances, etc. w.e.f. 1.1.92 in terms of MOU dated 29.11.95, MOS and Circular no. 5/96 vide no. Per/Cal/WC/1(6) dated 7.2.96 issued by GM (P&A), HPC at par with others.

28.7.1997 The Single Bench passed order directing the respondents to make available to the petitioners' union the benefit of MOU dated 29.11.95 issued vide notification dated 7.2.96.

09.1997 HPC and NPPC filed appeal before the Division Bench of the High Court of Gauhati, Kohima Bench challenging the above order. Division Bench stayed the above order.

24.1.2005 The Division Bench dismissed the appeal.

10.2.2005 Petition filed for review of the judgement dated 24.1.05.

25.4.2005 To save limitation one Special Leave Petition was filed before the Supreme Court of India against the judgement dated 24.1.2005.

24.5.2005 The review petition has been admitted. In view of admission of the review petition as aforesaid the SLP has become infructuous and has been withdrawn.

6.3.2006 The writ appeal has been heard on merit and remained part heard.

Status : HPC filed an affidavit on 3.12.2007 bringing the contents of the order of BIFR in respect of NPPC to the notice of Division Bench, Kohima. The Honourable Court expressed the view that it would hear on the relationship between holding company and subsidiary again. HPC has also filed additional affidavit on 28.2.09 bringing the subsequent development to the notice of the court.

- 12) Bishwambar Kanaujia & Others -vs- Union of India,
State of Nagaland, HPC & NPPC.

The Workers and Supervisors of NPPC had filed 5 writ petitions before the High Court of Gauhati, Kohima Bench with prayer to restore the Medical reimbursement, LTC facility and also to extend them the benefits of pay revision w.e.f. 1.1.92 and 1.1.97. The Honourable High Court disposed of all the said writ petitions by a common judgement dated 6.11.2006 directing NPPC to allow the employees of NPPC the benefit of pay revision w.e.f. 1.1.92 within a period of 3 months. It has also been directed to allow the pay revision benefit w.e.f. 1.1.97 if the revival package in respect of NPPC is approved in the meantime. The defence taken by HPC & NPPC that NPPC is a sick company and that the employees of sick PSUs are not entitled to the benefit of pay revision as per the directives issued by DPE in OM dated 12.4.1993, 17.1.1994, 19.7.1995 and also as per the law laid down by Honourable Supreme Court in the case of A K Bindal & Others -vs- Union of India & Others has however been rejected.

6.12.06 NPPC filed 5 appeals against order dated 6.11.06.

24.1.07 Operation of the order dated 6.11.06 stayed.

NPPC filed two additional affidavits on 3.12.2007 and on 28.2.09 bringing the contents of the order and corrigendum issued by BIFR in respect of NPPC and also subsequent developments to the notice of the Honourable Division Bench, Kohima.

3.3.09 All the six appeals (5 filed by NPPC and 1 filed by HPC) have been heard together. During the said hearing the Workers' Union contended that a sum of Rs. 1336 lakhs has been kept in the revival scheme and the said amount is payable to them towards wage revision arrears. NPPC & HPC's Counsel submitted that the above amount of Rs. 1336 lakhs under the head "Pressing Creditors" had been brought forward from the provision made under contingent liabilities in NPPC's balance sheet in view of pending court cases. It is not a committed liability. Payment of arrears is to be decided by the Honourable High Court/Superior Court and the GoI. The Honourable High Court directed both NPPC & HPC's counsel to ascertain/take instruction whether the sum of Rs. 1336 lakhs includes the amount which may be required for the purpose of making

revised pay available to the non-unionized employees of NPPC if the above appeals are dismissed. As advised an opinion has been obtained from an independent Chartered Accountant explaining the term 'Contingent Liability', its purpose and implication. A Senior Advocate of Calcutta High Court has also been engaged to present the case. The said Advocate has been briefed and given all the documents including the letter of DHI dated 26.3.09, judgement dated 27.10.06 passed by the High Court of Karnataka and opinion of the Chartered Accountant etc. Though the appeals were listed for hearing on 29.5.09, but were not taken up for hearing due to paucity of time. The appeals are likely to be listed for hearing in the first week of July, 2009.

Status: **The above appeals were taken up for hearing on 15.9.2009. The Counsel on behalf of the workers' union and Officers' Association filed an affidavit reiterating that provision has been made in the DRS and SS showing an amount of Rs. 1336 lakhs towards pay revision arrears. It has also been stated that in every Board Meeting of NPPC as also in 31st and 35th Annual Report of NPPC pay revision of employees w.e.f. 1.1.1992 is shown as Rs. 1336 lakhs. They have also stated in the affidavit that they are willing to accept payment of revised pay structure w.e.f. 1.1.1992 without determination of the question as to whether the employees of NPPC are the employees of HPCL without prejudice to their right to claim in future that they are in effect employees of HPCL. Hence there is no impediment whatsoever, legal or otherwise in the way of the Hon'ble Court to pass final order directing NPPC to make payment of revised scale of pay w.e.f. from 1.1.1992. The Counsel of NPPC and HPC has, however, objected to the contention raised in the affidavit. He also submitted that NPPC and HPC want to give reply in the form of affidavit to the affidavit filed by workers and officers of NPPC. The Hon'ble Court has directed to file the same before the next date of hearing. Though NPPC & HPC's Counsel wanted to make further submission regarding the provision of Rs. 1336 lakhs, the Hon'ble Court advised to make the said submission on the next date of hearing due to paucity of time. The Bench is sitting again from**

16.11.2009 to 20.11.2009 at Kohima when the above appeals shall be heard.

14) **HPC –vs- Sales Tax Deptt., U.P.**

By a notification dated 4.3.2008 the U.P. State Government allowed rebate @ 4% on the Entry Tax w.e.f. January 2008. Accordingly, HPC effected sale by allowing the said 4% rebate to the dealers/customers. Commercial Tax Deptt. Lucknow sent nine notices all dated 28.11.2008 disallowing the rebate of 4% of VAT from Entry Tax w.e.f. January, 2008 and called upon HPC to pay a sum of Rs. 4.77 crores within 30 days from the date of receipt of the said notices. The Commercial Tax Deptt. issued notice thereafter also to HPC demanding payment for the month of November, 2008. HPC has filed 10 appeals on 2nd January, 2009 against 10 demand notices challenging the legality of withdrawal of rebate and praying to pass an order staying operation of the aforesaid notices. Upon hearing the said appeals, the Joint Commissioner (Appeals) vide order dated 15.1.09 stayed operation of the aforesaid notices subject to furnishing of bank guarantee for 75% of Rs. 477 lakhs and 25% by way of cash by HPC. HPC filed an appeal before the Tribunal against the said order. The said appeal is pending. Meanwhile ST Deptt. sent notice to HPC for depositing Rs. 118.59 lakhs as per the order of the Joint Commissioner. Since the above amount was not deposited in view of the pendency of the appeal the bank account of HPC at Lucknow was got attached. As per the verbal advice of Dy. Commissioner, HPC deposited a sum of Rs. 47.83 lakhs being the 10% of the Rs. 477 lakhs. The bank account has been released. HPC has also filed a writ petition before the Hon'ble High Court of Allahabad, Lucknow Bench, with prayer to stay the demand. The Hon'ble High Court after hearing has stayed the demand with direction to secure the demand by way of bank guarantee.

Status: The case shall be listed for hearing in due course.