

CHAPTER-VII

CHAPTER VII

MINES & MINERALS

7.1 Tax administration

Assessment and collection of mining receipts are governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the West Bengal Minor Minerals (WBMM) Rules, 2002; the Bengal Public Demands Recovery (BPDR) Act, 1913; the Cess Act, 1880; the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.

Four Departments viz. Commerce and Industries (C&I) Department, Finance Department, Land and Land Reforms (L&LR) Department and the General Administration Department are associated with the assessment, levy and collection of mining receipts. All Departments are headed either by an Additional Chief Secretary or Principal Secretary/Secretary level officer and assisted by Director and district level officers.

7.2 Internal audit

There was no separate Internal Audit Wing (IAW) for the units related to mining receipts. As the mining activities are regulated by Land and Land Reforms (L&LR) Department, the IAW of the L&LR Department is liable to conduct audit of the units involved in regulation of mining activities. The IAW of the L&LR Department was re-introduced in the year 2007-08 with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations, executing orderly and effective operations and safeguarding resources against loss. Performance of the IAW of L&LR Department has already been discussed in **Para 3.2** of this report.

7.3 Results of audit

In 2013-14, test check of the records of 13 units relating to mining receipts showed underassessment of tax and other irregularities amounting to ₹ 13.54 crore in 145 cases, which fall under the categories given in **Table 7.1**.

Table 7.1

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	80	8.18
2.	Non/short assessment/levy/realisation of royalty and cess	28	0.86
3.	Penalty for underperformance	18	4.00
4.	Short realisation of royalty due to collection made on pre-revised rate instead of new revised rate	9	0.49
5.	Other cases	10	0.01
Total		145	13.54

During the course of the year, the Department accepted underassessment and other deficiencies in 141 cases of ₹ 11.87 crore, of which 121 cases involving ₹ 11.37 crore were pointed out during the year 2013-14 and the rest in earlier years. An amount of ₹ 14.59 lakh was realised in 23 cases during the year.

A few illustrative cases involving ₹ 6.06 crore are discussed in the following paragraphs.

Audit findings

7.4 Non/short realisation of royalty and cess on brick earth/sand

Rule 27(1) of the West Bengal Minor Minerals (WBMM) Rules, 2002 provides that the district authority or any other officer authorised in this behalf by the State Government may grant quarry permit to any person to extract minor mineral on pre-payment of royalty at prescribed rates. Further, under the provisions of the Cess Act, 1880 (as amended in 1984), the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, the holders of quarry permits are liable to pay different types of cesses at prescribed rates on extraction of minor minerals.

During test check of records relating to brick fields, Demand and Collection Registers and Minutes of the meetings of District Land & Land Reforms Officers (DL&LROs) with the Brick Field Owners' Associations (BFOAs), conducted during May 2012 and February 2013, Audit found in five¹⁶³ DL&LROs that brick field owners extracted brick earth/sand during 2009-10 to 2011-12 without any pre-payment of royalty and cess as prescribed. Also, prior permits were not taken by them as required for extraction of brick earth/sand. Further, in 72 cases, it was seen that although the brick field owners had extracted 79.22 lakh cubic feet (cu ft) of brick earth/sand, neither did the owners pay the royalty and cess amounting to ₹ 32.38 lakh, in advance, nor was payment made till audit. It was also observed from the minutes of the meeting between DL&LROs and BFOAs, in contravention of the extant provisions that DL&LROs allowed the brick field owners to make payment of royalty and cess after extraction of brick earth. In other 52 cases, the brick field owners extracted 87.71 lakh cu ft of brick earth and paid royalty and cess of ₹ 18.54 lakh against ₹ 28.54 lakh, but DL&LROs did not initiate any action to realise the differential amount. Thus, there was an overall non/short realisation of royalty and cess of ₹ 42.38 lakh in these 124 cases.

After it was pointed out, DL&LRO, South 24 Parganas admitted (December 2012) the audit observation in 36 cases involving ₹ 6.40 lakh and stated that ₹ 0.61 lakh has been realised in one case; but did not furnish any report on realisation in respect of the remaining cases. Two DL&LROs, Burdwan (East) and North 24 Parganas admitted (between September 2012 and February 2013) the audit observations in 44 cases involving ₹ 25.93 lakh; but did not furnish report on realisation. In the remaining 44 cases involving

¹⁶³ Burdwan (East), Howrah, North 24 Parganas, Purba Medinipur and South 24 Parganas.

₹ 10.05 lakh, two DL&LROs¹⁶⁴ did not furnish any specific reply (November 2014).

The cases were forwarded to the Government between June 2012 and March 2013 followed by the reminders issued upto March 2014; their reply has not been received (November 2014).

7.5 Non-imposition of penalty on extraction of sand less than the prescribed minimum quantity

Under Rule 21(1)(e) of the WBMM Rules, 2002 the holder of a mining lease shall extract and dispatch the minimum quantity of minerals from the leasehold area annually as prescribed in the lease deed. In case there is any shortfall in the extraction and dispatch of the prescribed minimum quantity without any satisfactory reason¹⁶⁵, penalty to the extent of twice the amount of royalty that should have accrued on such shortfall shall have to be paid by the lessee.

During scrutiny of lease deeds and case records pertaining to extraction of sand available at DL&LROs, Burdwan (East) and Paschim Medinipur between September and December 2011, it was found that in 34 cases 21 lessees extracted 93.07 lakh cu ft of sand against the minimum prescribed quantity of 263.41 lakh cu ft as per the lease deeds. No reasons were found on record for short extraction of sand. However, the DL&LROs did not levy nor demand penalty of ₹ 2.15 crore for short extraction of 170.34 lakh cu ft of sand. This resulted in non-levy of penalty and consequent non-realisation of revenue of ₹ 2.15 crore.

DL&LRO, Paschim Medinipur admitted (December 2013) the audit observations in eight cases and intimated that demand notices for ₹ 1.36 crore were issued subsequently. In the remaining 26 cases involving ₹ 0.79 crore, the DL&LRO, Burdwan (East) also admitted (September 2011) the audit observation and stated that demand notices would be issued to realise the dues. Their report on realisation is awaited (November 2014).

The cases were forwarded to the Government between October 2011 and January 2012 followed by reminders issued upto April 2014; their reply has not been received (November 2014).

7.6 Short realisation of royalty on minor minerals (sand, stone and boulder etc.) due to application of pre-revised rates

Under the WBMM Rules, 2002, royalty is payable for extraction of minor minerals at the rates prescribed by the Government from time to time. The rates of royalty on minor minerals were enhanced with effect from 5 December 2011 vide Notification no. 809/CI/O/MM/84/11 dated 1 December 2011.

¹⁶⁴ Howrah and Purba Medinipur.

¹⁶⁵ Rule 16(4) explains reasons for non-commencement of mining operations within a period of one year from the date of execution of mining lease.

Scrutiny of records of quarry permits and collection of royalty in four DL&LROs between September 2012 and June 2013 revealed that the District authorities realised royalty of ₹ 45.42 lakh at the pre-revised rates instead of ₹ 56.07 lakh in respect of 276 quarry permits issued for extraction of 78.97 lakh cu ft of sand, stone and boulder etc between 5 December 2011 and 2 July 2012. This resulted in short realisation of royalty of ₹ 10.65 lakh.

After it was pointed out, three¹⁶⁶ DL&LROs admitted (between September 2012 and June 2013) the audit observations in 61 cases involving ₹ 2.78 lakh, but did not furnish any report regarding realisation. In the remaining 215 cases involving ₹ 7.87 lakh, DL&LRO, Jalpaiguri did not furnish any specific reply (November 2014).

The cases were forwarded to the Government between October 2012 and July 2013 followed by the reminders issued upto March 2014; their reply has not been received (November 2014).

7.7 Non/short realisation of price of brick earth extracted unauthorisedly

Under Section 21(5) of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof. By an order issued in September 1984, the Board of Revenue, West Bengal fixed the price of brick earth as ₹ 30 per 100 cu ft for the year 1981 with an increase of ₹ 1.50 per 100 cu ft each year.

In seven¹⁶⁷ DL&LROs, audit found that in 338 cases, the brick field owners had irregularly extracted 6.30 crore cu ft of brick earth between 2010-11 and 2012-13. Of these, in 134 cases the brick earth was extracted unauthorisedly and the price of brick earth of ₹ 2.15 crore was not realised. In the remaining 204 cases there was excess extraction for which price of brick earth was to be levied instead of royalty and cess which were collected, resulting in short realisation of ₹ 1.23 crore. Thus, there was total non/short realisation of ₹ 3.38 crore.

After it was pointed out, four¹⁶⁸ DL&LROs admitted (between June 2012 and June 2013) the audit observations in 125 cases involving ₹ 1.88 crore but did not furnish any report regarding realisation. In the remaining 213 cases involving ₹ 1.50 crore, DL&LROs did not furnish any reply/specific reply (November 2014).

¹⁶⁶ Burdwan (East), Darjeeling and Uttar Dinajpur.

¹⁶⁷ Burdwan (East), Coochbehar, Hooghly, Murshidabad, North 24 Parganas, Purba Medinipur and South 24 Parganas.

¹⁶⁸ Coochbehar, Hooghly, North 24 Parganas and South 24 Parganas.

The cases were forwarded to the Government between July 2012 and July 2013 followed by reminders issued upto April 2014; their reply has not been received (November 2014).



Kolkata 27.02.2015

(MAUSUMI RAY BHATTACHARYYA)
Accountant General
(Economic and Revenue Sector Audit),
West Bengal

Countersigned



New Delhi 05.03.2015

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

