

CHAPTER VII: MINING RECEIPTS

7.1 Results of audit

Test check of the records relating to assessment and collection of mining receipts during the year 2008-09 revealed non/short levy of royalty, dead rent, non-recovery of contract money, royalty, mineral area development cess and short levy of interest on belated payment of royalty etc. amounting to Rs. 333.73 crore in 433 cases which can be categorised as under:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	Short realisation/evasion of interest and royalty	183	227.21
2.	Non/short levy of royalty	29	30.11
3.	Loss of interest	107	2.06
4.	Non-levy of dead rent	77	1.18
5.	Others	37	73.17
Total		433	333.73

During the year 2008-09, the department accepted underassessment of royalty and dead rent of Rs. 240.07 crore involved in 368 cases. During the year an amount of Rs. 7.40 crore had been recovered in 27 cases.

Few illustrative audit observations involving Rs. 102.93 crore are mentioned in the following paragraphs.

7.2 Audit observations

Scrutiny of records of various mining offices revealed several cases of non-compliance of the provisions of the Mines and Minerals (Development and Regulation) Act, Madhya Pradesh Minor Mineral Rules etc., and Government notifications and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Mining Officers are pointed out in audit each year but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system and internal audit.

7.3 Non-realisation of rural infrastructure and road development tax

According to the provisions of the Madhya Pradesh *Gramin Avasanrachana Tatha Sadak Vikas Adhiniyam*, 2005 and notification of September 2005, rural infrastructure and road development tax at the rate of five *per cent* per annum of the market value of major minerals produced after deducting amount of royalty actually paid by the lessee and Rs. 4,000 per hectare per year in case of idle mines is to be levied from the lessees holding mining leases. The Act further provides that competent authority shall assess the sale value of minerals on the basis of returns/accounts submitted by the lessees and shall assess and demand the tax by the end of May each year.

Scrutiny of records of nine District Mining (DM) offices¹ between October 2008 and March 2009 revealed that the assessment of road development tax in respect of 65 mining leases for the year 2007-08 had not been done, resulting in non-realisation of tax of Rs. 93.56 crore.

After this was pointed out, all the District Mining Officers (DMOs) except Jhabua, Neemuch and Tikamgarh stated (between October 2008 and March 2009) that action would be taken as per rule after scrutiny. The DMOs, Jhabua, Neemuch and Tikamgarh stated (between November 2008 and January 2009) that as per Supreme Court's order communicated by Madhya Pradesh Mining Resources Department's order dated 27 November 2006, such amount could not be recovered by force. It may be noted that the above order does not restrict assessment and issue of demand to the lessees. It only states that recovery of the tax under this *Adhiniyam* cannot be made coercively.

The matter was reported to the Director, Geology & Mining (DGM) and the Government in February 2009; their reply has not been received (October 2009).

7.4 Non-realisation of revenue due to irregular reduction of stock

According to section 9 (1) of the Mines and Minerals (Development and Regulation) Act, 1957, every lessee of mining lease has to pay royalty in respect of minerals removed/consumed from leased area, at the rates specified in the second schedule of the Act.

¹ Anuppur, Badwani, Betul, Gwalior, Jhabua, Katni, Neemuch, Panna and Tikamgarh.

Scrutiny of records of the DMO, Anuppur in March 2009 revealed that South Eastern Coalfields Limited (SECL) Somana, Jamuna Kotma, Govinda and Mira and Bhadra areas had incorrectly shown closing stock in the monthly statements of B, C and D grades of coal between April 2007 and March 2008 as 1.59 lakh tons instead of 3.01 lakh tons. Thus, the lessee had irregularly reduced the stock by 1.42 lakh tons, on which royalty of Rs. 2.76 crore was payable. Though the returns were available in the office of DM, the DMO failed to detect these errors. This resulted in non-realisation of revenue of Rs. 2.76 crore.

After this was pointed out, the DMO stated (March 2009) that action for recovery would be taken after scrutiny. Further development has not been reported (October 2009).

The case was reported to the DGM and the Government in May 2009; their reply has not been received (October 2009).

7.5 Non-imposition of penalty due to non-submission of returns by the lessees

According to rule 30(20)(a)(b)(c) of the Madhya Pradesh Minor Mineral Rules, 1996, every lessee of quarry lease shall furnish monthly, six monthly and annual returns to the DMO in the prescribed forms on specified dates, failing which the lease sanctioning authority may impose penalty not exceeding double the amount of annual dead rent.

Scrutiny of records of nine DM Offices² between October 2008 and January 2009 revealed that out of 1,037 lessees, 15 lessees had not submitted any monthly, six monthly and annual returns and 35 lessees had partly submitted these returns for the period January 2000 to March 2008. In the absence of prescribed periodical returns, accuracy of the royalty/dead rent paid by the lessees could not be verified. Therefore, the lessees responsible for non-submission of periodical returns were liable for penalty. However, the department did not initiate any action to impose and realise the penalty from the lessees which would have resulted in realisation of revenue of Rs. 2.22 crore in the form of penalty calculated at double the amount of annual dead rent.

After this was pointed out, all the DMOs stated (between October 2008 and January 2009) that action would be taken against the lessees under the rules. Further development has not been received (October 2009).

The matter was reported to the DGM and the Government between November 2008 and March 2009; their reply has not been received (October 2009).

7.6 Non-levy of interest on belated payment

According to the Mineral Concession Rules, 1960, a lessee is liable to pay royalty by the prescribed date, failing which he is liable to pay simple interest at the rate of 24 *per cent* per annum from the sixtieth day of the expiry of the

² Ashoknagar, Bhopal, Gwalior, Hoshangabad, Jhabua, Neemuch, Tikamgarh, Ujjain and Vidisha.

stipulated date until the payment of royalty. Under the MPMM Rules and conditions of contract agreement, contractors of trade quarries are required to pay contract money on or before the dates indicated in their contract agreement, failing which the contractor is liable to pay, in addition to the contract money, interest at the rate of 24 *per cent* per annum till the default continues.

Scrutiny of records of 10 DM offices³ during 2008-09 revealed that four lessees of mining leases, 27 quarry lessees and 148 contractors of trade quarries had delayed payment. The delay ranged between 2 to 1,917 days. The department did not levy any interest on these belated payments which resulted in non-levy of interest of Rs. 1.98 crore.

After this was pointed out, the DMO, Bhind stated (October 2008) that action would be taken as per rule after receiving information from Madhya Pradesh State Mining Corporation. Other DMOs stated (between October 2008 and February 2009) that action would be taken for recovery as per rule. Further developments have not been reported (October 2009).

The cases were reported to the DGM and the Government between February-March 2009; their reply has not been received (October 2009).

7.7 Short realisation of revenue due to irregular issue of temporary permits

According to rule 68(1) of the Madhya Pradesh Minor Mineral Rules, the Collector shall grant permission for extraction, removal and transportation of any minor mineral from any specific quarry or land which may be required for the works of any department and undertaking of the Central Government or the State Government. Sub-rule (3) further provides that such permission shall only be granted on payment of advance royalty calculated at the rates specified in Schedule III.

Scrutiny of records of five DM Offices⁴ between February and December 2008 revealed that 26 temporary permits were issued to 15 contractors for construction of roads and buildings involving 8.10 lakh cubic meter (cum) road metal, 1.20 lakh cum *murrum*, 19,650 cum boulder and 55,850 cum sand between December 2005 and March 2008. The department had not realised advance royalty leviable on the quantity of minerals shown in the permits. The contractors paid Rs. 50.78 lakh only against payable royalty of Rs. 2.39 crore which resulted in short realisation of revenue of Rs. 1.88 crore.

After this was pointed out, the DMO, Shivpuri stated (September 2009) that an amount of Rs. 1.01 crore had been recovered. Remaining DMOs except Hoshangabad stated between February and December 2008 that action for recovery would be taken. The DMO, Hoshangabad stated (December 2008) that temporary permits for Government work were given for which transit passes were issued against the royalty paid by the contractor for sanctioned quantity of mineral. However, the fact remains that as per

³ Anuppur, Badwani, Bhind, Chhindwara, Jabua, Katni, Morena, Neemuch, Ratlam and Shahdol.

⁴ Bhopal, Hoshangabad, Sagar, Shivpuri and Vidisha.

Collector (Mining), Hoshangabad letter dated 29 March 2008, the advance royalty payable by the contractor was Rs. 14.85 lakh, whereas he deposited Rs. 4.31 lakh.

The cases were referred to the DGM and the Government in February and March 2009; their reply has not been received (October 2009).

7.8 Short realisation of contract money

According to the condition no. 5 (i) and 9 of the contract agreement for trade quarry, every contractor has to pay contract money⁵ to the state Government on the scheduled dates. If the contractor fails to pay contract money for a period of three months, his contract will be cancelled and quarry will be re-auctioned. Consequent upon re-auction of the quarry, if the Government sustains any loss, the same will be recovered from the defaulting contractor as arrears of land revenue.

Scrutiny of records of 18 DM Offices⁶ between October 2008 and March 2009 revealed that 164 contractors had paid contract money of Rs. 2.71 crore for the period April 2004 to March 2008 against the payable amount of Rs. 4.24 crore. Though the contractors had defaulted in making payment of contract money since beginning of the contracts, yet the department had not initiated any action against them under the term of the contract to cancel the contract and re-auction them. This resulted in short realisation of contract money of Rs. 1.53 crore.

After this was pointed out, all the DMOs stated (between October 2008 and February 2009) that action for recovery would be taken. Further development has not been reported (October 2009).

The cases were reported to the DGM and the Government between February-March 2009; their replies had not been received (October 2009).

7.9 Non/short realisation of dead rent

According to Madhya Pradesh Minor Mineral Rules, a lessee is liable to pay dead rent every year except the first year of the lease at the rates specified in Schedule IV, in advance for the whole year, on or before the twentieth day of the first month of the following year.

Test check of records of 21 DM Offices⁷ between October 2008 and March 2009 revealed that 177 quarry lessees had paid dead rent of Rs. 28.16 lakh against the payable amount of Rs. 1.40 crore due from January 2002 to December 2008. This resulted in short realisation of dead rent of Rs. 1.12 crore.

After this was pointed out, all the DMOs except Katni stated (between October 2008 and March 2009) that action for recovery would be taken.

⁵ A sum to be paid by the contractors in lieu of a contract.

⁶ Ashoknagar, Anuppur, Badwani, Chhindwara, Chhatarpur, Dewas, Hoshangabad, Jhabua, Katni, Morena, Neemuch, Panna, Ratlam, Raisen, Sagar, Sehore, Shahdol and Vidisha.

⁷ Ashoknagar, Badwani, Betul, Bhind, Bhopal, Chhatarpur, Chhindwara, Dewas, Gwalior, Indore, Jhabua, Katni, Morena, Neemuch, Panna, Raisen, Ratlam, Sagar, Shivpuri, Sehore and Ujjain.

DMO, Katni stated (February 2009) that proposal for declaring the lease as lapsed has been sent to the Government. The fact remains that no such document was found in the record of the concerned lessees.

The case was reported to the DGM and the Government between November 2008 and March 2009; their reply has not been received (October 2009).

7.10 Non-realisation of penalty against illegal extraction

Under the Mines & Minerals (Regulation and Development) Act, no person shall undertake any prospecting or mining operations in any area without a prospecting licence or mining lease granted under the Act. Further, as per section 247 (7) of the Madhya Pradesh Land Revenue Code, 1959, any person/firm who without lawful authority extracts or transports mineral, shall be liable to pay penalty which would not exceed twice the market value of the mineral.

Scrutiny of records of DMOs, Panna and Raisen in October and November 2008 revealed that in nine cases of illegal extraction, the court imposed penalty of Rs. 3.68 lakh (between March 2007 and September 2008). Although demand notices were issued by the DMO at the instance of audit, recovery had not been made (August 2009). In other four cases of illegal extraction involving revenue of Rs. 5.83 lakh, neither any action was taken (till November 2008) by the DMO concerned to realise the penalty nor the cases were referred to the court. This resulted in non-realisation of revenue of Rs. 9.51 lakh.

After this was pointed out, the DMO, Panna stated (October 2008) that demand notices had been issued in seven cases and in two cases directives had been issued. In the remaining four cases, the DMO, Raisen stated (November 2008) that action had been proposed and would be intimated in due course. Further developments have not been reported (October 2009).

The cases were reported to the DGM and the Government in February 2009; their reply has not been received (October 2009).