

CHAPTER-VII

Implementation of the mining rules/regulations

7.1 Pending royalty assessments due to non fixation of time limits

Rule 38 of the RMMC Rules provides that assessment of royalty shall be made by assessing authority after filing of the return for respective year by the assessee. If the assessee fails to submit returns within prescribed period, the assessing authority may assess the royalty to the best of his judgment.

We found in the DMG office that as on 31 March 2009, assessment of 8,860 number royalty cases (major minerals: 2,859, minor minerals: 6,001) were pending. It reflects laxity of the concerned assessing officers towards royalty assessments.

The Government stated (September 2010) that it was a regular process. We do not accept the reply as a time bound programme should be prescribed for assessment of royalty to avoid increase in arrears of revenue.

7.2 Pending royalty assessments of short term permits

Rule 63 (6) of the RMMC Rules stipulates that STP holders shall be responsible for submission of records of the minerals actually excavated/despached by him within 15 days of expiry of validity of STP. The State Government vide order dated 3 October 2001, also instructed to get the royalty assessed of the minerals consumed in works, within 15 days after the date of completion of the works.

7.2.1 We found in 14 ME/AME offices¹⁰ that out of 9,424 STPs issued, during the years 2004-05 to 2008-09, to various public works contractors, 6,872 cases (72.92 per cent) were pending for royalty assessments for want of mineral consumption statements from the concerned construction agencies. There was lack of monitoring in the ME/AME offices for watching the

pending royalty assessment cases and recoverable royalty/cost amount of minerals used in works. The pending cases of royalty assessments were also not taken up seriously with the concerned construction allotment departments. This resulted in non/short realisation of Government revenue.

The Government stated (September 2010) that action was being taken for assessments.

¹⁰ Ajmer, Balesar, Banswara, Bundi II, Jaisalmer, Jodhpur, Makrana, Nagaur, Nimbahera, Rajsamand II, Sikar, Sirohi, Sojat city and Udaipur.

7.2.2 We found that ME, Udaipur issued 471 STPs to private persons for 17,68,875 MT mineral masonry stone during the years 2004-05 to 2008-09 involving royalty amount of ₹ 1.54 crore. The STP holders were to get assessment done within 15 days of expiry of validity of STP. Royalty assessments in all these cases were pending (October 2009). In these cases, actual quantity of mineral masonry stone or the other mineral excavated/despached against the authorised quantity and area of excavation mentioned in STP with respect to actual pit measurement from which mineral were dig out was also not verified by the ME. In absence of which, illegally excavated and despached mineral could not be ascertained by us, and misuse of *rawannas* for despaching other minerals from other areas could not be ruled out.

The Government stated (September 2010) that assessments have been made and ₹ 1.58 lakh had been recovered and notices for recovery of rest amount has been issued.

7.3 Delay in approval of cost of illegally excavated minerals

As per DMG circular dated 6 December 2004, prior approval of SME for recovery of cost of mineral was required before raising demand in all cases of '*panchnamas*' of illegal excavation and despach of minerals

7.3.1 (a) We found (July 2009 to March 2010) from records of the DMG and SME, Bharatpur along with four AME/ME offices¹¹ that in 15 cases, demand of cost of various minerals illegally excavated and despached was either pending at AME/ME's level or pending for approval at the concerned SME

level from 28 to 60 months. Delay in approval of demand of cost of illegally excavated and despached minerals resulted in non-initiating of action for recovery of cost of mineral amounting to ₹ 9.76 crore. No time limit has been prescribed for approval of demand.

(b) Similarly, in ME, Jodhpur we found (January 2010) that in another case of illegal excavation and despach of 12,000 MT *khanda* and 8,001.1 MT *patties* of sand stone from the land of *khasra* no.6 and 14 of village Badli involving mineral cost of ₹ 38.40 lakh was registered (14 May 2007) against a person. The matter was sent (14 February 2008) to SME, Jodhpur, of which approval was pending (January 2010) even after lapse of two years.

Thus, a sum of ₹ 10.14 crore in above cases as worked out by the MEs based on cost of mineral was not recovered due to lack of effective action by the Department.

¹¹ Balesar, Jodhpur, Makrana and Rajsamand II.

The Government stated (September 2010) that action would be taken after establishing committee at SME level. We do not accept the reply as orders of DMG already exist to obtain prior approval of SME in case of illegal mining. Hence, establishing a committee would only delay recovery and dilutes the matter.

7.3.2 We found (January 2010) that in six cases of illegal despatch of minerals, the ME, Jodhpur has neither worked out cost of minerals nor raised demand of ₹ 27.60 lakh.

The Government stated (September 2010) that action for recovery is being taken.

7.3.3 We found (January 2010) in office of the ME, Jodhpur that as per mineral consumption statement and royalty assessment dated 24 April 2006, a public works contractor illegally used minerals *bajri*, masonry stone *etc.* For recovery of cost of minerals, the SME, Jodhpur accorded sanction on 16 December 2008 after lapse of 31 months, and even thereafter balance amount of ₹ 14.78 lakh had not been recovered (October 2010).

7.3.4 In office of the ME, Rajsamand-I, we found (January 2009) that ₹ 30.49 lakh involved in 173 cases of illegal excavation and despatch of minerals, detected during 2006-07, could not be recovered due to preparation of incorrect/wrong *panchnamas* as intimated by the Department. A committee was constituted for disposal of the matter but no action has been taken (June 2010).

The Government stated (September 2010) that action would be taken after verifying the *panchnamas* by the committee established for this purpose. We feel that the Government should have initiated action against defaulter officials.

7.4 Delay in disposal of appeals

Rule 43 of the RMMC Rules provides that any person aggrieved by an order of SME/ME/AME passed under these rules shall have right to appeal to the DMG. The powers of the DMG in this respect had been delegated to ADM. Similarly, any person aggrieved by any order passed in appeal by the ADM, shall have the right to appeal to the Government.

We found from records of three ADMs, and Dy. Secretary, Mines and Geology that 3,548 appeal cases, pertaining to grant or renewal or cancellation or termination of mining leases or quarry licence or royalty collection contracts, forfeiting security deposits, assessment of royalty and

imposition of penalty *etc.* were pending in appeal since long as detailed below:

(In numbers)

Calendar year	Name of appellant authority and appeal cases pending				Total
	Dy.Secy.	ADM, Jaipur	ADM, Udaipur	ADM, Jodhpur	
up to 2004	81	7	16	458	562
2005	14	24	17	400	455
2006	39	162	21	486	708
2007	91	194	49	593	927
2008	116	222	64	494	896
Total	341	609	167	2,431	3,548

No time frame has been prescribed for disposal of appeals. In the absence of finalisation of the appeals, aggrieved persons were deprived of timely decision/justice. Pendency of appeals also effected/delayed realisation of Government revenue.

The Government stated (September 2010) that pending appeals were a regular process. We do not accept the reply as appeals are pending for more than five years, which should have been disposed off in a time-bound manner so that aggrieved persons may not wait decision for long time.

7.5 Insufficient action for recovery of dues

During scrutiny of the records of 10 ME/AME offices¹², we observed (June 2009-March 2010) that ₹ 2.61 crore of royalty/dead rent and interest of 113 cases was not recovered due to lack of concrete and timely action.

The Government stated (September 2010) that ₹ 1.77 lakh has been recovered and action was being taken for recovery of the balance amount.

7.6 Dues under the Land Revenue Act

Section 25 of the MMDR Act and Rule 62 of the RMMC Rules envisage that recovery of dues along with interest may be recovered as arrears of land revenue.

7.6.1 We found that ₹ 28.29 crore was pending as on 31 March 2009 under revenue recovery certificates. As on 31 March 2009, 682 cases involving ₹ 9.95 crore pertaining to five AME/ME offices¹³ were registered for recovery. Of these, in 445 cases no action was initiated for recovery. Recovery action was taken only in 237 cases, of which properties of 46 defaulters were attached and a sum of ₹ 28.79 lakh was recovered. In 12

cases, whereabouts of the defaulter's properties were not known. Thus, the dues to the tune of ₹ 9.66 crore could not be recovered.

The Government stated (September 2010) that action was being taken for recovery.

¹² Balesar, Barmer, Bundi II, Jaisalmer, Jodhpur, Nagaur, Rajsamand I, Rajsamand II, Sikar and Sirohi.

¹³ Ajmer, Jaisalmer, Jodhpur, Makrana and Sikar.

7.6.2 We found that in office of the ME, Makrana, recovery of ₹ 3.07 crore, being cost of unauthorised excavation/despatch of minerals in 48 cases, was pending due to ineffective action on the part of department, though the cases were got registered under the Land Revenue Act for recovery.

The Government stated (September 2010) that ₹ 0.33 lakh have been recovered and action was being taken for recovery of the balance amount.

7.6.3 In office of the ME, Bundi II, we found that 71 cases of illegal excavation/ despatch of minerals were registered during the years 1986-87 to 2005-06 but action for recovery of cost of minerals ₹ 19.76 lakh was not taken. Even the cases were not registered under LR Act for recovery.

7.6.4 We observed that in following two cases, there was abnormal delay in raising the demand for cost of minerals. Lacklustre approach of the Department in raising the demands and recovery thereof led to non-recovery of the cost of minerals, though the cases were lodged under the Land Revenue Act subsequently.

Name of ME Office	Period of incidence	Year of demand raised	Amount involved (₹ in lakh)	Reasons for demand
Makrana	2002-03	2007-08	33.79	Illegal excavation and despatch of mineral marble from outside the sanctioned area of lease no. 142/5.
Jodhpur	2003-04	2004-05	11.70	Contractor supplied mineral ballast without obtaining STP. The demand was raised at our instance.

In respect of all dues under LR Act, the Government stated (September 2010) that effective action is being taken for recovery.

7.7 Pending chemical and ceramic laboratory samples

A Government laboratory was established in the DMG office for chemical analysis, ceramic tests, petrography studies and other types of analysis of the minerals.

We found from the records of the DMG that the number of samples pending for chemical analysis, ceramic tests *etc.* has sharply increased to 5381 (in 2008-09) from 375 (at the end 2004-05).

When we pointed out (October 2009) this, the DMG replied that due to shortages of staff, pendency of tests has increased. Pending samples analysis will be completed early.

Pending chemical analysis/tests has affected the finalisation/settlement of royalty assessments and causing delay in revenue realisation.

7.8 Irregular waiver of cost

Rule 65 of the RMMC Rules provides that the Government may relax any provision of these rules for reasons to be recorded in writing.

We found (June 2009) from records of the ME, Sikar that 18 lease holders of mineral masonry stone were involved in illegal excavation/despatch of mineral, hence, demand of ₹ 257.38 lakh, being cost of the mineral, was raised. The matter of illegal excavation

was forwarded to Government (July 2004) by the ME, Sikar for regularisation, treating the illegal excavation of mineral within the sanctioned lease areas. The Deputy Secretary, Mines waived off (16 May 2007) the recoverable cost of ₹ 257.38 lakh with the condition that the defaulters shall deposit penalty amount at the rate of ₹ 25 per square metre of illegal excavated areas. Accordingly, ₹ 17.79 lakh only were recovered against the recoverable cost of ₹ 257.38 lakh. The waiver of cost of mineral illegally excavated/despatched was against the provisions of Rule 65 of the RMMC Rules as the relaxation in rules could only be given on the basis of recorded reasons and with prior approval of the Finance Department. In these cases quantity of mineral excavated by the defaulters was also not kept in view. This resulted in a loss of ₹ 239.59 lakh to the State exchequer.

The Government stated (September 2010) that matter was regularised by charging ₹ 25 per square metre. We do not accept the reply as sanction of the Finance department was not obtained as envisaged in Rule 65 of the RMMC Rules and mineral excavated and despatched by lease holders were not kept in view while finalising the matter. In these cases, undue benefits were allowed to lease holders.

7.9 Non/short recovery of prospecting expenses

As per provision contained in Rule 9 (A) of the Prospecting Rules, 1969, expenditure incurred by the department for prospecting the areas was to be recovered from the concerned prospecting licensee/mining lease holders as per rates prescribed in the rules.

In the office of DMG and ME, Nagaur, we found that as per our calculation prospecting expenses of ₹ 7.27 crore were either not recovered or recovered short from the seven prospecting licencees/mining lease holders in nine cases. Further, systematic and authentic records for monitoring the recovery of prospecting expenses have not

been maintained in the office of Additional Director Geology, Udaipur. Hence, actual prospecting expenses remained recoverable from various prospecting licencees/ lease holders could not be ascertained by us.

The Government stated (August 2010) that the dues from M/s. Wollcame have been recovered, and balance dues from other lease holders would be recovered.

7.10 Non-forfeiture of security deposits

Condition number 9 and 11 of the RCC/ERCC executed under Rule 37(2) of the RMMC Rules envisage that in case of default in due observance of terms and conditions of the contract, the contract may be terminated with forfeiture of security deposits. If any amount is not paid on due date, it shall be collected as an arrears of land revenue along with interest at the rate of 15 *per cent* per annum.

We found (February 2010) from records of AME, Barmer that three RCC/ERCC contractors failed to deposit ₹ 34.66 lakh dues of the contract and interest ₹ 18.23 lakh thereon. The AME did not recover the dues of ₹ 52.89 lakh and also failed to

forfeit their security deposits amounting to ₹ 18.41 lakh available with him, though the contracts were terminated.

The Government stated (September 2010) that recovery was under process.

7.11 Non-raising demand of interest

Section 9(2) of the MMDR Act and the Government's instructions of April 2000 and March 2008 provide that lessee shall pay the excess royalty amount on the quantity of mineral despatched during the month. Further, Rule 64 A of the MC Rules provides that lessee shall be liable to pay interest at the rate of 24 *per cent* per annum on the delayed payments for the period of delay computing from 60th day of the due date.

7.11.1 We found (June 2009-March 2010) that in eight ME/AME offices¹⁴, demand of interest of ₹ 2.59 crore on delayed/non-payments of excess royalty amount in 40 cases was not raised and recovered.

When we pointed out this, the ME, Barmer, Jaisalmer, Nagaur and Sikar agreed to recover the

interest amount. In respect of three cases of AME, Dungarpur, the Government stated (September 2010) that the interest was leviable from the date of raising demand after royalty assessment. We do not agree the reply as the royalty was payable at the time of despatch of mineral from the lease areas.

As per terms and conditions of the ERCC agreement executed under Rule 37(2) of the RMMC Rules, the contractor has to pay the instalments of the contract money by 10th of the each month in advance. Interest amount is to be paid on delayed deposits at the rate of 15 *per cent* per annum for the period of delay.

7.11.2 We found (February 2009-March 2010) that in seven ME/AME offices¹⁵, in 19 cases demand of interest amounting to ₹ 62.06 lakh was short raised.

When we pointed out this, the ME, Nagaur and Sikar agreed

¹⁴ Barmer, Dungarpur, Jaisalmer, Nagaur, Nimbahera, Sikar, Sirohi and Udaipur.

¹⁵ Barmer, Banswara, Makrana, Nagaur, Rajsamand II, Sikar and Udaipur.

to recover the differential amount of interest. In remaining cases the Government stated (September 2010) that compliance would be made.

Rule 61 of the RMMC Rules provides that interest at the rate of 15 per cent per annum shall be charged in case the amount of dead rent, royalty etc. is paid after 15 days from the date it becomes due.

7.11.3 We found (June 2009-January 2010) that in eight ME/AME offices¹⁶, in 136 cases, the demand of interest amounting to ₹ 26.70 lakh was neither raised nor recovered on delayed payments.

When we pointed out this ME, Sikar accepted the facts. The Government stated (September 2010) that ₹ 0.48 lakh

have been recovered by ME, Nimbahera.

7.12 Non-recovery of minimum premium charges

By issue of order dated 27 April 2005, the State Government appointed M/s Rajasthan State Mines and Mineral Limited (RSMML) and M/s Fertilizer Corporation of India (FCI) as Government agents for excavation of mineral gypsum in eleven areas of AME, Sriganganagar and six areas of ME, Bikaner. As per conditions of their appointment, the agents were to produce and despatch minimum quantity of 2,000 ton per month of gypsum from each area. If this level of production is not achieved, minimum premium charge of ₹ 40,000 per month per area was payable by the agents to concerned ME/AME as per Government order dated 27 April 2005.

In audit of records of AME, Sriganganagar and ME, Bikaner, we observed (July 2009) that RSMML and FCI agents failed to produce and despatch the required minimum quantity of 2,000 ton of gypsum per month per area during the period April 2008 to March 2009. The demand of ₹ 50 lakh, being minimum premium charges at the rate of ₹ 40,000 per

month per area, became due, which was neither raised, nor recovered by the Department.

On being pointed out (April 2010) the Government stated (September 2010) that ₹ 23.20 lakh had been recovered and action is being taken to recover the balance amount.

7.13 Recommendations

- *The Government may consider preparation of panchnamas in prescribed format and setting a time frame for approval of cost of illegal despatches of minerals.*
- *The Government may consider setting a time frame for disposal of pending appeal cases.*

¹⁶ Ajmer, Banswara, Jodhpur, Nimbahera, Rajsamand I, Sikar, Sirohi and Udaipur.

- *The Government may consider quick and effective action for raising demand and their recovery.*
- *The Government may take effective steps for equipping the laboratory adequately to expedite the analysing/testing of the samples received in laboratory or alternatively consider outsourcing this activity.*
- *The Government may consider maintaining systematic and authentic records of expenses incurred on prospecting the areas and for recovery made from lease holders.*



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