

CHAPTER-VI

MINERAL CONCESSION, FEES AND ROYALTY

EXECUTIVE SUMMARY

Marginal increase in non-tax collection	In 2010-11, the collection of fees and royalty increased by 18.62 <i>per cent</i> over the previous year which was attributed by the Department to better control.
Internal audit not conducted	No information regarding setting up of internal audit wing in the Department was furnished to audit though called for. No audit was either conducted by the Finance Department during this period. This resultantly had its impact in terms of the weak internal controls in the Department leading to substantial leakage of revenue. It also led to the omissions on the part of the District Mining Officers remaining undetected till we conducted our audit.
Very low recovery by the Department of observations pointed out by us in earlier years	During the period 2005-06 to 2009-10 we had pointed out under-assessment of royalty etc., with revenue implication of ₹ 1,210.48 crore in 26,636 cases. Of these, the Department/Government accepted audit observations in 15,419 cases involving ₹ 284.87 crore but recovered only ₹ 104.91 crore. The recovery position as compared to acceptance of objections during 2005-06 to 2007-08 was very low ranging from 13.32 <i>per cent</i> to 19.98 <i>per cent</i> .
Results of audits conducted by us in 2010-11	<p>In 2010-11 we test checked the records of 19 units relating to mineral concession, fees and royalty and found under-assessment of royalty and other irregularities involving ₹ 49.88 crore in 1,156 cases.</p> <p>The Department accepted under-assessment and other deficiencies of ₹ 20.58 crore in two cases pointed out by us during 2010-11.</p>
What we have highlighted in this Chapter	<p>In this Chapter we present illustrative cases with revenue implication of ₹ 24.26 crore selected from observations noticed during our test check of records relating to assessment and collection of mineral concession, fees and royalty in the district mining offices where we found that the provisions of the Acts/ Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action. We are also concerned that though these omissions were apparent from the records which were made available with us, the District Mining Officers were unable to detect them.</p>
Our conclusion	<p>The Department needs to improve the internal control system including arranging for internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover the undercharge of royalty, etc., pointed out by us, more so in those cases where it has accepted our contention.</p>

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6.1 Tax administration

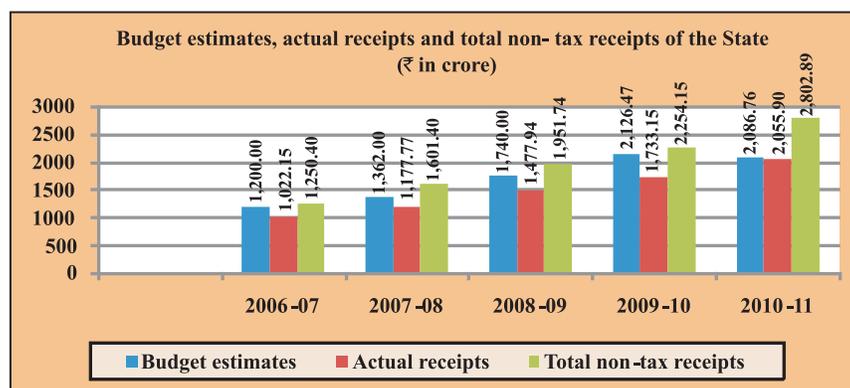
The levy and collection of royalty in the State is governed by the Mines and Mineral (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Jharkhand Minor Mineral Concession Rules, 2004. At the Government level, the Secretary, Mines and Geology Department and at the department level, the Director of Mines is responsible for administration of the Acts and Rules. The Director of Mines is assisted by an Additional Director of Mines (ADM) and Deputy Director of Mines (DDM) at the headquarters level. The State is divided into six circles¹, each under the charge of a DDM. The circles are further divided into 24 district mining offices², each under the charge of a District Mining Officer (DMO)/Assistant Mining Officer (AMO). The DMOs/AMOs are responsible for levy and collection of royalty and other mining dues. They are assisted by Mining Inspectors (MIs) who are authorised to inspect the lease hold areas for production and dispatch of minerals.

6.2 Trend of receipts

Actual receipts from royalty and fees against budget estimates during 2006-07 to 2010-11 along with the total non-tax receipts during the same period is exhibited in the following table and chart:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts
2006-07	1,200.00	1,022.15	(-) 177.85	(-) 15.00	1,250.40	81.75
2007-08	1,362.00	1,177.77	(-) 184.23	(-) 14.00	1,601.40	73.55
2008-09	1,740.00	1,477.94	(-) 262.06	(-) 15.00	1,951.74	75.72
2009-10	2,126.47	1,733.15	(-) 393.32	(-) 18.50	2,254.15	76.89
2010-11	2,086.76	2,055.90 ³	(-) 30.86	(-) 01.48	2,802.89	73.35



¹ Chaibasa, Daltonganj, Dhanbad, Dumka, Hazaribag and Ranchi.

² Bokaro, Chatra, Chaibasa, Daltonganj, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Ramgarh, Ranchi, Sahebganj, Saraikela and Simdega.

³ There was discrepancy in figures of actual receipts between figures as per Finance Accounts (₹ 2,055.90 crore) and as per information furnished by the Department (₹ 2,133.59 crore).

Though the receipts during 2010-11 increased by 18.62 per cent as compared to 2009-10, the percentage of receipt *vis-à-vis* total non-tax revenue of the State decreased from 76.89 per cent in 2009-10 to 73.35 per cent in 2010-11.

6.3 Working of internal audit wing

No information regarding setting up of internal audit wing in the Department was furnished to us though called for. As per information furnished to audit, no audit was conducted by the Finance Department during 2010-11.

6.4 Impact of audit

Revenue impact

During the last five years (2005-06 to 2009-10) we pointed out under-assessment of royalty etc., with revenue implication of ₹ 1,210.48 crore in 26,636 cases. Of these, the Department/Government accepted audit observations in 15,419 cases involving ₹ 284.87 crore. As per information furnished by the Department, recovery of ₹ 104.91 crore has been effected during 2005-06 to 2009-10, however, number of cases in which recovery was made has not been furnished. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount		
2005-06	22	11,844	231.10	2,547	8.86	1.77	19.98
2006-07	15	592	234.42	228	10.34	1.88	18.18
2007-08	14	10,908	407.80	10,114	203.12	27.05	13.32
2008-09	20	3,043	210.51	2,507	51.29	69.06	134.65
2009-10	11	249	126.65	23	11.26	5.15	45.74
Total	82	26,636	1,210.48	15,419	284.87	104.91	

6.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 were ₹ 565.21 crore. The year-wise position of arrears of revenue during the period 2006-07 to 2010-11 are depicted below:

(₹ in crore)

Year	Opening balance of arrears	Closing balance of arrears
2006-07	312.73 ⁴	229.92
2007-08	229.92	290.72
2008-09	290.72	298.35
2009-10	298.35	285.58
2010-11	285.58	565.21

The Department intimated that arrears as on 31 March 2011 of ₹ 565.21 crore were outstanding, of which ₹ 361.73 crore was certified for recovery as arrears of land revenue. Recovery of ₹ 155.03 crore and ₹ 17 lakh was stayed by various courts and by the Government respectively. Recovery of ₹ 2.94 crore was held up due to rectification/revision of applications while recovery of

⁴ Arrears of revenue as furnished by the department was ₹ 295.48 crore, however, actual totaling of the break-up was worked out to ₹ 312.73 crore.

₹ 2.59 crore was held up due to lessees becoming insolvent. An amount of ₹ 5 lakh was likely to be written off. Specific action taken in respect of ₹ 42.70 crore has not been intimated.

Thus, it would be seen from the above that 64 *per cent* of the total amount was pending settlement due to non-settlement of certified cases and 27 *per cent* was pending settlement due to non-finalisation of the court cases. Action is required to be taken to recover the amount of ₹ 42.70 crore.

We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring of court/certified cases and recovering the arrears as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.

6.6 Results of audit

Our test check during 2010-11 of the records of 19 units relating to ‘Mineral Concession, Fees and Royalty’ revealed under-assessment of royalty and other irregularities involving ₹ 49.88 crore in 1,156 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non-levy or short levy of royalty and cesses	2	15.25
2	Non-levy of interest	1	2.54
3	Non-initiation of certificate proceedings	138	7.98
4	Non/short levy of royalty/price of mineral due to suppression of dispatch/illegal mining of iron ore	7	4.71
5	Other cases	1,008	19.40
Total		1,156	49.88

During the course of the year, the Department accepted under-assessments and other deficiencies amounting to ₹ 20.58 crore in two cases, pointed out by us during 2010-11.

In this Chapter we present a few illustrative cases having recoverable financial implication of ₹ 24.26 crore which are discussed in the succeeding paragraphs:

6.7 Non-observance of the provisions of Acts/Rules

The Mines and Mineral (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960, the Jharkhand Minor Mineral Concession (JMMC) Rules, 2004 and the Jharkhand Mineral Dealers (JMD) Rules, 2007 provide for:

- (i) *payment of royalty on the minerals removed and consumed from the lease area at the rates prescribed, and within the due dates; and*
- (ii) *payment of price of minerals in addition to royalty for the minerals extracted without valid lease/permit, treating the mining as illegal.*

The Mines and Geology Department did not observe some of the provisions of the Acts/Rules in the cases mentioned in paragraphs 6.8 to 6.13 for levy and collection of royalty.

6.8 Short levy of royalty

Under the provisions of the MMDR Act, the holder of a mining lease is required to pay royalty in respect of any mineral removed or consumed from leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. By an amendment made in the second schedule of the Act in August 2007, the Central Government prescribed a formula for determination of rates of royalty of different categories of coal.

6.8.1 We noticed (February 2011) during test check of the demand files in the District Mining Office, Pakur that a mining lease holder dispatched 84.49 lakh metric tonne of coal of different

grades during 2009-10 and paid royalty of ₹ 97.47 crore for the aforesaid dispatch. We calculated⁵ the actual royalty payable at ₹ 112.12 crore by using the formula prescribed by the Central Government. Though a similar irregularity for the period 2008-09, was pointed out in an earlier Audit Report⁶, the Mining Officer did not scrutinise the returns to verify the claim of royalty with those notified by the Central Government, resulting in short payment of royalty of ₹ 14.65 crore.

After we pointed out the matter (February 2011), the AMO raised the demand (February 2011) as pointed by us. Report on realisation has not been received (February 2012).

6.8.2 We noticed (January 2011), during test check of monthly returns of a lessee for 2007-08 and 2008-09 in District Mining Office, Godda, that though the new rate for coal was notified by Coal India Ltd (effective from 13 December 2007), royalty at lower rates⁷ for F and G grades coal was paid by the lessee on dispatch of 97.39 lakh metric tonne of

⁵ Calculated on the basis of basic pithead price of ROM coal (of a nearby coal mine, Simlong Colliery of Eastern Coal Fields) as notified by Coal India Ltd.

⁶ Paragraph number 7.6.2 of Audit Report (Revenue Receipts), Government of Jharkhand for the year ended 31 March 2010.

⁷ Upto February 2008 ₹ 87.50 and ₹ 81.11 thereafter ₹ 88.40 and ₹ 81.84 for Grade F and Grade G coal respectively.

coal during 13 December 2007⁸ to 31 December 2008 in the returns. We calculated the royalty payable at the revised rates of ₹ 93 and ₹ 85.50 per metric tonne for the aforesaid grades on the basis of the formula prescribed by the Central Government. Thus, the Mining Officers did not scrutinise the returns properly, which resulted in short levy of royalty of ₹ 4.57 crore.

After we pointed out the matter (January 2011), the AMO stated (January 2011) that action would be taken after examination of the case. Further reply has not been received (February 2012).

6.8.3 We noticed (December 2010) in District Mining Office, Dhanbad while scrutinising the monthly returns of two collieries for the year 2009-10 that the lessees had made payment of royalty of ₹ 48.41 crore on dispatch of 34.43 lakh metric tonne of washery grade IV coal instead of royalty payable of ₹ 49.29 crore worked out on the basis of formula prescribed by the Central Government. This resulted in short levy of royalty of ₹ 87.62 lakh.

After we pointed out the matter, the AMO stated (December 2010) that action would be taken after examination of cases. Further reply has not been received (February 2012).

6.8.4 We noticed (February 2011) during scrutiny of monthly returns of a lessee for the year 2009-10 in District Mining Office, Lohardaga that though the closing stock of bauxite in the railway siding was 16,000 metric tonne at the end of September 2009, the lessee had shown opening stock as 38,000 metric tonne in the month of October 2009. Thus, turnover of 22,000 metric tonne had escaped payment of royalty in September 2009. Non-verification of the returns by the AMO resulted in short levy of royalty of ₹ 19.58 lakh.

After we pointed out the matter, the AMO stated (February 2011) that the matter will be examined. Further reply has not been received (February 2012).

The cases were reported to the Government in May 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

6.9 Short levy of royalty due to downgrading of coal

The MMDR Act provides for payment of royalty by a lessee on the quantity of mineral removed or consumed from the leased area at the rate prescribed according to the grade of coal. Under the provisions of the Colliery Control Rules 2004, the owner of a colliery shall declare its grade and pay royalty at the rate specified.

We noticed (December 2010) during test check of returns submitted by two collieries under Bharat Coking Coal Ltd. (BCCL) in District Mining Office, Dhanbad that 2.49 lakh metric tonne of coal was removed and dispatched during 2009-10. Though the dispatched coal was notified by BCCL

(owner) as Grade 'C' steam and direct feed coal, it was incorrectly shown as 'C' Run-Of-Mine (ROM) and steel Grade-II in the monthly returns of the collieries and royalty of ₹ 7.49 crore was paid accordingly. We calculated the payable royalty at

⁸ For 13 to 31 December 2007, proportionate quantity of coal of total dispatch for the month of December 2007 had been taken.

₹ 8.10 crore as per grades declared by the owner of the collieries. Non-verification of grades as claimed by the collieries in their returns with those notified by BCCL resulted in short levy of royalty of ₹ 60.73 lakh.

After we pointed out the matter, the AMO stated (December 2010) that the matter would be examined. Further reply has not been received (February 2012).

The matter was reported to the Government in May 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

6.10 Absence of inter-departmental cross-verification of data resulted in short-levy of royalty

Under the provisions of the MMDR Act, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from the lease area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, the Government has not specified any system for cross-verification of returns filed by the lessees with the data/information of other departments/undertakings to check short payment or evasion of royalty.

We collected data relating to dispatch of iron ore by two mining lease holders from the Commercial taxes circle (CTC), Chaibasa and Sr. Divisional Commercial Manager (DCM), Chakradharpur, SE Railway and cross verified the same with the returns of the lessees in the District Mining Office, Chaibasa.

We noticed (December 2010) that the two lessees had reflected dispatch of iron ore of 64.71 lakh metric tonne in their monthly returns during 2006-07 to 2008-09 and paid royalty accordingly. However, the records of CTC, Chaibasa and DCM, Chakradharpur indicated that the lessees had actually dispatched iron ore of 76.89 lakh metric tonne during the period. Thus, there was a suppression of 12.18 lakh metric tonne of iron ore. This resulted in under assessment of payable royalty of ₹ 2.27 crore by the lessees.

After we pointed out the matter, the DMO stated (December 2010) that the matter would be examined. Further reply has not been received (February 2012).

The matter was reported to the Government in May 2011 followed by reminder issued in September 2011; their reply has not been received (February 2012).

The Government may consider establishing a mechanism for co-ordination with other departments/undertakings for cross-verification of information/data with the returns of the lessees to ensure correct realisation of royalty.

6.11 Non-levy of penalty for non-submission of monthly returns

Under the provisions of the JMMC Rules, every lessee/permit holder is required to submit a return in the prescribed form for extraction and removal of minor minerals by the fifteenth day of the following month. In case a lessee or a permit holder fails to furnish the required return within the prescribed period, he shall be liable to pay as penalty a sum of ₹ 20 for every day after the expiry of the prescribed date subject to a maximum of ₹ 2,500.

We noticed (February 2011) during test check of the raising and dispatch registers of the District Mining Office, Pakur that 19 lessees did not submit monthly returns relating to the period between April 2005 and March 2010. However, the Department, while

raising the demand, did not verify the raising and dispatch register to ensure submission of returns and raised demand for dead rent only, presuming the dispatch as 'nil'. Penalty for non-submission of returns, though leviable, was not levied in any of the cases. This resulted in non-levy of penalty of ₹ 14.48 lakh.

After we pointed out the matter, the AMO stated (February 2011) that the matter would be examined. Further reply has not been received (February 2012).

The matter was reported to the Government in May 2011 followed by reminder issued in September 2011; their reply has not been received (February 2012).

6.12 Non-raising of demand for price of illegally mined iron ore

Under the provisions of the MMDR Act, 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, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land has been occupied by such person without any lawful authority.

We noticed (December 2010) during test check of the illegal mining register of the DMO, Chaibasa for the period 2009-10 that 6,900 metric tonnes of iron ore was stored illegally in the premises of five persons in August 2009. Notices under the

JMD Rules, 2007, seeking reasons for illegal storage and violation of the rules, were issued to the defaulters in August 2009. Replies to the notices were not on record (December 2010). Even after a lapse of more than 15 months, from the date of issue of the notices, the Department did not initiate action to seize the illegally procured minerals. Taking the price of the mineral (iron ore fines) at ₹ 494 per metric tonne (IBM price for the month of August 2009), the price of mineral to be recovered from these defaulting persons stood at ₹ 34.64 lakh including royalty of ₹ 55,200.

After we pointed out the matter, the DMO stated (December 2010) that the matter would be examined. Further reply has not been received (February 2012).

The matter was reported to the Government in May 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).

6.13 Non-levy of penalty for illegal mining by works contractors

Under the provisions of the JMMC Rules 2004, civil works contractors are required to purchase minor minerals only from the authorised lessees/ permit holders and authorised dealers. It further provides for submission of affidavits in form 'O' and particulars in form 'P' by the works contractors to the Works Department indicating therein details of sources of purchase of minerals, price paid and quantity procured along with the bills. The Works Department, in turn, is required to forward the photocopies of form 'O' and 'P' to the Mining Department for verification of the details of minerals procured and consumed. In case of non-compliance, penalty not exceeding the amount of royalty is leviable by the collector.

We noticed (March 2011) in the District Mining Office, Gumla that during 2009-10, 12 works divisions, Panchayat and Block Development Officers deducted and deposited royalty of ₹ 59.59 lakh for the minerals consumed in the works contracts without forwarding the copies of form 'O' and 'P' to the Mining office for verification of the details of minerals procured and consumed. The Department

did not take any action to levy the penalty of ₹ 59.59 lakh.

After we pointed out the cases, the DMO, Gumla stated (March 2011) that reminder would be sent to the concerned Works Department for detailed report of deducted amount of royalty. Further reply has not been received (February 2012).

The matter was reported to the Government in May 2011 followed by a reminder issued in September 2011; their reply has not been received (February 2012).