

***CHAPTER-VI***  
***NON-TAX RECEIPTS***

Executive Summary: Chapter - VI	
Marginal increase in non-tax collection	Non-tax Revenue of Govt. of Rajasthan increased to ₹ 6294.12 crore in the year 2010-11 as compared to ₹ 4558.22 crore, during the previous year. Increase in non-tax revenue in the year 2010-11 over the previous year was 38 <i>per cent</i> .
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 observations with revenue implication of ₹ 1135.19 crore in 109 paragraphs. Of these, the Department/Government accepted audit observations in 73 paragraphs involving ₹ 366.29 crore and had since recovered ₹ 24.52 crore in 27 paragraphs. Recovery was only seven <i>per cent</i> even in accepted cases.
Internal audit not conducted.	Records of DMG, Udaipur revealed that internal audit of almost all the mining units were pending since 2004-05. This resultantly had its impact in terms of weak internal controls in the Department leading to substantial leakage of revenue. In the absence of internal audit, the Departmental authorities remained unaware of the areas of malfunctioning of the systems, and were, therefore, unable to take timely remedial action.
Results of Audit conducted by us in 2010-11	<p>In 2010-11 we test checked the records of the Mines, Geology and Petroleum, Colonisation, General Administration, and Public Works Department and found non/short recovery of revenue amounting to ₹ 1,150.61 crore in 3,842 cases.</p> <p>The Mines, Geology and Petroleum Department accepted short realisation and other deficiencies of ₹ 29.48 crore in 2,242 cases, of which 1,738 cases involving ₹ 23.70 crore were pointed out by us in audit during the year 2010-11 and rest in earlier years.</p> <p>The Department recovered ₹ 5.77 crore in 704 cases, which were pointed out in earlier years and no recovery was made in the accepted cases for the year 2010-11.</p>

<p>What we have highlighted in this Chapter</p>	<p>In this Chapter we present illustrative cases involving ₹ 158.00 crore selected from observations noticed during our test check of the records relating to assessment and collection of Mines, Geology and Petroleum, Colonisation, General Administration, and Public Works Department, where we found that the provisions of the Acts/Rules were not observed.</p> <p>This has resulted in irregular sanction of lime stone lease as, minor mineral, Undue benefit to lessees by granting the lease to those lease holders who were already possessing two leases. Further, there was no control on the quantity of minerals to be excavated, eight mining lease holders excavated minerals in excess of the quantity authorised by RSPCB, even though unauthorised excavation causes serious threats to environment and ecological balance. There was no coordination among Revenue Department, Forest Department, Police and Mines Department; due to which illegally excavated minerals (stone) were dispatched to Haryana and Uttar Pradesh States.</p>
<p>Our conclusion</p>	<p>The Department should take remedial steps to stop illegal mining. It should be ensured that the lessee took measures for the protection of environment and such other measures like air pollution during prospecting mining, beneficiation or metallurgical operations and related activities be controlled and kept within permissible limits. There should be a control mechanism to keep a watch on the minerals excavated by the lessees. To minimize illegal mining there should be coordination among the different Departments of the State such as Revenue, Police, forest and Mining Department. The lessees should be allowed in accordance with the provisions of the Act/Rules.</p> <p>The Department needs to improve the internal control system including strengthening of internal audits so that weakness in the system are addressed and omissions of the nature detected by us are avoided in future.</p>

## CHAPTER-VI: NON-TAX RECEIPTS

### 6.1 Introduction

Non-tax revenue of the State Government mainly comprises receipts from interest, mines and minerals, miscellaneous general services, water resources, public works, police, medical and health, forestry and wild life *etc.* The total revenue and non-tax revenue raised by the State Government during the years 2006-07 to 2010-11 was as under:

(₹ in crore)

Year	Total revenue raised by the State	Total non-tax revenue of the State	Percentage of non-tax revenue to total revenue
2006-07	15,038.85	3,430.61	22.8
2007-08	17,328.66	4,053.93	23.4
2008-09	18,832.21	3,888.46	20.6
2009-10	20,972.49	4,558.22	21.7
2010-11	27,053.20	6,294.12	23.3

During the last five years, the contribution of non-tax revenue to total revenue of the State ranged between 20.6 *per cent* (2008-09) to 23.4 *per cent* (2007-08).

### 6.2 Analysis of arrears of revenue

The arrears of revenue of mining receipts (excluding arrears of illegal excavation/despatch of minerals) as on 31 March 2011 amounted to ₹ 64.11 crore, of which ₹ 21.42 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue as on 31 March 2011.

(₹ in crore)

Year of arrear	Opening balance of arrears as on 1.4.2010	Amount collected during the year 2010-11	Closing balance of arrears as on 31.3.2011
Up to 2005-06	82.17	60.75	21.42
2006-07	90.62	80.76	9.86
2007-08	101.42	91.49	9.93
2008-09	103.17	97.53	5.64
2009-10	119.22	101.96	17.26
<b>Total</b>	<b>496.60</b>	<b>432.49</b>	<b>64.11</b>

The chances of recovery of arrears of ₹ 21.42 crore, outstanding for more than five years, are bleak.

**We recommend that the Government should take appropriate action to recover the arrears.**

### 6.3 Impact of Audit Reports

During last five years, we, through our audit reports, had pointed out cases of non/short levy, non/short realisation, underassessment/loss of revenue, application of incorrect rate of tax, incorrect computation of tax *etc.* with revenue implication of ₹ 1135.19 crore in 109 paragraphs. Of these, the Department/Government had accepted audit observations in 73 paragraphs involving ₹ 366.29 crore and had since recovered ₹ 24.52 crore in 27 paragraphs (December 2011) as shown in the following table:

(₹ in crore)

Year of Audit	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2005-06	12	155.77	6	40.51	4	2.09
2006-07	15	34.29	8	3.24	6	1.02
2007-08	13	275.30	10	23.86	5	4.31
2008-09	27	259.67	17	22.01	11	17.04
2009-10						
Revenue Receipts	5	7.31	4	2.39	1	0.06
Mining Receipts	37	402.85	28	274.28	-	-
<b>Total</b>	<b>109</b>	<b>1135.19</b>	<b>73</b>	<b>366.29</b>	<b>27</b>	<b>24.52</b>

Amount of recovery is less than the accepted amount because in some cases recovery had been stayed by the judicial authorities, while in other cases demands were pending at various stages of recovery.

### 6.4 Working of Internal Audit Wing

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner, subordinate offices are maintaining various records, registers/account books properly and accurately, and adequate safeguards are being taken against non/short collection or evasion of revenue.

Records of DMG, Udaipur revealed that audit of almost all the mining units were pending since 2004-05. Thus, in absence of internal audit, the internal control mechanism of the Department is not strong.

**In the absence of internal audit, the Departmental authorities remained unaware of the areas of malfunctioning of the systems, evasion/leakage of revenue and did not, therefore, have any opportunity of taking remedial action.**

## 6.5 Results of Audit

During test-check of the records of the Mines, Geology and Petroleum, Colonisation, General Administration, and Public Works Department conducted during the year 2010-11 revealed non/short recovery of revenue amounting to ₹ 1,150.61 crore in 3,842 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
<b>A</b>	<b>Mines, Geology and Petroleum Department</b>		
1.	Unauthorised excavation	563	437.38
2.	Non/short recovery of dead rent and royalty	174	10.53
3.	Non-levy of penalty/interest	847	3.55
4.	Non-forfeiture of security	79	0.17
5.	Other irregularities	2,151	697.63
<b>B</b>	<b>Colonisation Department</b>		
1.	Irregular calculation of cost of land	21	0.13
<b>C</b>	<b>General Administration Department</b>		
1.	Non-recovery of rent and interest	6	0.49
<b>D</b>	<b>Public Works Department</b>		
1.	Failure of Department in revising the bid price resulted in loss of revenue	1	0.73
	<b>Total</b>	<b>3,842</b>	<b>1,150.61</b>

During the year 2010-11, the Mines, Geology and Petroleum Department accepted short realisation and other deficiencies of ₹ 29.48 crore in 2,242 cases, of which 1,738 cases involving ₹ 23.70 crore were pointed out in audit during the year 2010-11 and rest in earlier years. The Department recovered ₹ 5.77 crore in 704 cases, which were pointed out in earlier years.

A few illustrative audit observations involving ₹ 158.00 crore are mentioned in the succeeding paragraphs 6.7 to 6.10.

## **A. Mines, Geology and Petroleum Department**

### **6.6 Audit observations**

*During test-check of the records of Mines, Geology and Petroleum Department revealed several cases of non-observance of the provisions of Act/Rules, non-adherence to the Government orders/procedure and other irregularities in the cases as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test-check carried out in audit. Such omissions on the part of Mining Engineers/Assistant Mining Engineers were pointed out in audit each year, however not only the irregularities persisting, these remain undetected till an audit is conducted. There is need for the Government to improve their internal control system.*

### **6.7 Non-observance of the provisions of Acts/Rules**

*The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act). Mineral Concession (MC) Rules, 1960. Mineral Conservation and Development (MCD) Rules, 1988 and Rajasthan Minor Minerals Concession (RMMC) Rules, 1986 provide for:*

- (i) levy of royalty at prescribed rates;*
- (ii) levy of cost of minerals illegally excavated/despached;*
- (iii) levy of interest on delayed payments;*
- (iv) grant of leases; and*
- (v) conservation of minerals.*

*The Mining Engineers/Assistant Mining Engineers and Departmental authorities did not observe the provisions of the Act/Rules in the cases mentioned in paragraphs 6.7.1 to 6.7.16. This resulted in non/short realisation of royalty, non/short realisation of cost of mineral and non-levy of interest of ₹156.65 crore.*

### 6.7.1 Irregular sanction of lime stone leases as minor mineral

Under section 13 of the MMDR Act, the Central Government has powers to make rules for regulating the grant of prospecting licenses and mining leases in respect of minerals and for the purposes connected therewith. Under section 15 of the *ibid* Act, the Central Government has delegated power to the State Governments to make rules in respect of concessions of minor minerals.

The Government of India declared (6 March 1965) limestone as minor mineral when used in kilns for manufacture of lime as building material, and authorised (14 September 1989) the State Governments to grant mining leases for lime stone as a minor mineral only, after satisfying that the lime stone is fit to be used only for manufacture of lime as building material on the basis of chemical analysis reports. Limestone assaying less than 40 *per cent* CaO or more than 16 *per cent* SiO<sub>2</sub> and 5 *per cent* or more of MgO only may be considered as a minor mineral. For this the Department should obtain a chemical analysis report of a reputed analyst.

As per rule 48 (5) of the RMMC Rules, cost of mineral, ten times of the royalty, is recoverable, when mineral excavated and dispatched unlawfully.

During test check of the records of five AME/MEs<sup>1</sup>, we found (November 2010 to January 2011) from royalty assessments that 35 leases of limestone to be used in kilns were sanctioned for making lime as building material. However, the lessees had despatched the limestone to various cement factories and steel plants for production of cement and iron which was contrary to the end use condition and violation of the conditions of mining leases. The chemical analysis report was not made available to audit.

We noticed that these facts were in the notice of the Department but no action was taken against the defaulter lessees. In one case, the AME Gotan had served notice (26.9.97) to lessee for despatching limestone to cement factories violating terms and conditions of the lease but no action was taken. Further in AME Gotan itself, one mining lease number 75/90 was sanctioned(16.2.91) in favour of M/s J.K.Synthetic Ltd. for Lime stone, to be used in cement plant, as minor mineral.

The action of the lessees to deviate the end use of mineral, in supplying to cement factories and steel plants, in contravention of conditions of the leases, was illegal. The Department was also responsible for the irregularity. Hence, as per rule 48(5) of the RMMC Rules, the cost of such illegally excavated and despatched mineral ₹ 398.47 crore was recoverable, which was not recovered.

When we pointed out, (November 2010 to January 2011) AME, Gotan and ME, Bhilwara stated that royalty of major mineral lime stone (cement grade) excavated from minor leases was recovered. However, instruction had been

<sup>1</sup> Bhilwara, Bundi II, Chittorgarh, Gotton and Nimbahera.



sought from DMG in this regard. ME, Bundi-II stated that limestone excavated from the leases sanctioned for minor mineral limestone (burning) was being sent to cement factory as the lime stone *bhattas* had been closed. ME, Chittorgarh and AME, Nimbahera stated that the action would be taken after obtaining directions from the higher authorities.

We do not accept replies because supply of lime stone to cement factories and steel plants which are covered under major mineral was irregular and violated the conditions of the leases regarding end use of the mineral.

The matter was pointed out to the Department and reported to the Government (December 2010 and March 2011). We are awaiting their replies (December 2011).

### 6.7.2 Undue benefit to lessees

Rule 11(2) of the RMMC Rules provides that the maximum number of mining leases granted for mineral to a person within direct jurisdiction of any ME/AME shall be restricted to two. Further, as per rule 72 of the *ibid* Rules, no mining lease, quarry licence, short term permit or any other permit shall be granted otherwise in accordance with the provisions of these rules, and if granted, shall be deemed to be null and void.

During test-check of the records of eight ME/AME offices<sup>2</sup>, we noticed (August 2010 and February 2011) that in 17 cases, leases were granted/transferred to those lease holders who were already possessing two leases in the direct jurisdiction of the ME/AME concerned. In these cases Department had extended undue benefit to the lessees by granting additional leases. The

DMG had also inquired (25 June 2009) about sanction of more than two lease areas in violation of Rule 11(2) of the RMMC Rules by ME, Rajsamand-II. However, no directions were issued by the Department to ME/AME to restrict the number of sanctioned leases to two within their direct jurisdiction. Sanctioning of more than two leases was violation of rules and as per rule 72 of the *ibid* Rules such leases were null and void. Therefore, the 7,37,676 MT minerals excavated and despatched was unlawful. The cost of unlawfully excavated and despatched minerals worked out to ₹ 104.88 crore.

When we pointed out, MEs, Udaipur, Rajsamand-I, Amet, Banswara and AME Nimbahera stated (August 2010 to January 2011) that leases were allotted and transferred as per RMMC Rules and Marble Policy 2002. We do not accept replies as there is no such provision in the Marble Policy regarding sanction of more than two leases. Moreover, the policy itself is made under the RMMC Rules.

ME, Rajsamand-II and AME, Rishabhdev stated (August 2010 and February 2011) that audit would be intimated after examining the matter and AME, Jalore, stated (September 2010) that matter was being referred to the Director/Government for their comments.

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<sup>2</sup> Amet, Banswara, Jalore, Nimbahera Rajsamand I, Rajsamand II, Rishabhdev and Udaipur.

The matter was pointed out to Department and reported to Government (September 2010 and March 2011). We are awaiting their replies (December 2011).

### 6.7.3 Loss of royalty

#### 6.7.3.1 Loss of revenue due to irregular revoking of royalty collection contract

Condition No. 2(9) of the agreement of excess royalty collection contract(ERCC)/ royalty collection contract (RCC) executed under rule 37(2) of the RMMC Rules, stipulates that in case of default in due observance of terms and conditions of the contract, the contract may be terminated by issuing a 15 days notice with forfeiture of security deposit. Rule 71(1) of the *ibid* rules, further stipulates that every notice under these rules shall be given in writing in person or by registered post.

During test check of the records of the ME, Bijoliya, we observed (January 2011) that a contract for collection of royalty and weighing charges on mineral sand stone (*Patti, Furshee, Cobbles and Blocks*) in Tehsils Bijoliya and Mandalgarh of District Bhilwara and Tehsil Begu of District Chittorgarh was sanctioned (28.03.2008) in

favour of M/s Mateshwari Indrani Contractors Private Limited for the period from 12 April 2008 to 31 March 2010 at an annual contract amount of ₹ 9.27 crore. The contract amount was to be deposited in advance in twelve equal instalments. The contractor failed to deposit instalments for the period 12 June 2009 to 11 July 2009 of the contract. Hence, ME issued (22 June 2009) a notice under postal certificate to contractor, for depositing the due amount of ₹ 79.06 lakh for the period 12 June 2009 to 11 July 2009. Due to non-compliance of the notice, the contract was terminated on 21 July 2009 forfeiting security deposit ₹ 115.88 lakh. A new royalty collection contract was awarded (9 December 2009) in favour of M/s Parth Network Private Limited, at ₹ 8.50 crore per annum for the period 12 December 2009 to 31 March 2011. During the intermittent period from 22 July 2009 to 11 December 2009 ₹ 2.18 crore were collected departmentally as royalty and weighing charges.

Against the ME's order of termination of royalty collection contract and forfeiture of security deposit, M/s Mateshwari Indrani Contractors Private Limited submitted (23.7.2009) appeal with the Additional Director, Mines (ADM), Udaipur stating that neither notice of dues was served upon them nor any opportunity of hearing was given. It was also mentioned that dues amount had been deposited on 16.7.2009 and 22.7.2009, therefore, requested to revive the contract restoring security deposit. The ADM in his decision (10 December 2009) observed that termination of the contract was not proper as the contractor had already deposited ₹ 60 lakh on 16 July 2009, ₹ 17.25 lakh on 22 July 2009 and balance ₹ 1.81 lakh on 24 July 2009, and the notice of dues was also not served to him. Moreover, the contract had been awarded to other party, its revival is not possible, hence security deposit of ₹ 1.16 crore may be refunded.

Thus, non-observing the prescribed procedure by the ME for issue of notice for termination of the contract caused the State Government a loss of ₹ 2.85 crore<sup>3</sup>.

When we pointed out, the ME stated (January 2011) that due to lapse of grace period and not accepting registered AD by the Post-office, the notice was sent by UPC. We do not accept reply because registered notice are to be sent on next day or handed over personally as envisaged in the rules. We are also of the opinion that the decision of the ADM to order refund of the security deposit of ₹ 1.16 crore was not correct since the contractor knew the due dates for deposit of instalment whether demanded or not by the ME.

The matter was pointed out to the Department and reported to the Government in February 2011. We are awaiting their replies (December 2011).

### 6.7.3.2 Loss of revenue due to despatch of mineral without *rawannas*

During test check of the records of ME, Karauli and AME, Tonk we noticed (June-November 2010) that two ERC Contractors violated the conditions of agreements, and collected excess royalty from the vehicle holders carrying mineral without *rawannas* instead of handing over the vehicles to the Mining Department for recovering cost of mineral. This caused loss of revenue ₹ 79.31 lakh to the State Government as below:

(₹ in lakh)

Name of office	Name of the ERC Contractor	Period of contract	Minerals and quantity (MT)	Period of illegal collection of royalty	Royalty amount illegally collected by the contractor	Cost of mineral	Total loss of revenue
ME, Karauli	M/s Shiva Corporation India Ltd. Jaipur	23.5.2009 to 31.03.2011	Sand stone <i>Khandas</i> 60385	5/2009 to 3/2010	6.04	60.39	66.42
AME, Tonk	M/s Shambhu Dayal Sharma	01.4.2008 to 31.3.2009	Masonry stone 11713	4/2008 to 7/2008	1.17	11.71	12.89
<b>Total</b>					<b>7.21</b>	<b>72.10</b>	<b>79.31</b>

No action was taken by the Department against defaulter ERC contractors in due observance of terms and conditions of the contract.

When we pointed out it (June and November 2010), the ME, Karauli stated (November 2010) No action was taken by the Department against defaulter ERC contractors in that contractor had collected excess royalty on mineral sand stone *khanda* despatched without *rawannas* from sanctioned leases, as no *rawannas* for *khandas* were issued to lessees by the Mining Department. Hence, the contractor and lessees were not defaulters. We do not accept reply because the despatch of mineral without *rawanna* falls in purview of unauthorised mineral as envisaged in terms and condition of the ERCC

<sup>3</sup> (₹ 1.16 crore of security deposit + ₹ 1.69 crore of less royalty received in Departmental collection).

agreement as well as under rule 48(5) of the RMMC Rules. In this case, the ME, Karauli is also responsible for the irregularity as the matter was in his notice. While, the AME, Tonk stated (June 2010), that after scrutiny of records action would be taken.

These matters were pointed out to the Department and reported to the Government (July and December 2010). We are awaiting their replies (December 2011).

#### 6.7.4 Non/short raising demand of cost of brick earth

As per brick earth concession rules, the kiln owner shall obtain permission for the brick earth to be used in making bricks. The permission shall be at least for one year and maximum for five years. The royalty on brick earth shall be recovered on the basis of annual metric ton quantity of earth used work out as per formula 150 days x 3.5 MT x Number of *ghories*. Rule 48 of the RMMC Rules provides that whenever any person raises, without lawful authority, any mineral, he shall be liable to pay cost of the mineral along with royalty so excavated.

During test check of the records of ME, Alwar and Dholpur, we noticed (August and September 2010) that seven kiln owners used brick earth illegally without obtaining requisite permit and paying royalty. The Department however raised demand on the basis of actual quantity of bricks found on the spot at the time of inspection whereas, the recoverable

cost along with royalty worked out to ₹ 186.77 lakh as detailed below:

(₹ in lakh)

Sl. No.	Name of office	Name of kiln owner	Period/date of unauthorised excavation / use of mineral	Demand raised by Department.	Recoverable amount
1.	ME, Alwar	M/s Govindam Bricks Co.	21.2.2005 to 17.3.2010 (Nine inspections)	33.47	60.29
		Shri Mukesh Chand Jain	10.5.2006 to 31.3.2010 (Six inspections)	30.51	56.61
2.	ME, Dholpur	M/s RM Bricks	15.1.2009	2.52	13.86
		M/s JS Bricks	12.2.2009	2.31	12.71
		M/s Shree Bricks	15.1.2009	2.73	15.01
		M/s Sona Bricks	9.3.2010	2.42	13.28
		M/s Kaila Bricks	9.3.2010	2.73	15.01
<b>Total</b>				<b>76.69</b>	<b>186.77</b>

When we pointed out (August and September 2010), the ME, Alwar and Dholpur stated (September 2010) that action for recovery of ₹ 63.98 lakh and ₹ 12.71 lakh respectively from the concerned kiln owners, calculated on the basis of actual number of bricks physically found filled in the kilns at the time of inspection, was being taken.

We do not accept replies because as per brick earth concession rules, minimum period of licence for recovering royalty and running brick kiln is one year, and the running of kilns were to be treated as continuous since during every inspection these kilns were found running. Thus, ₹ 186.77 lakh being recoverable amount for unauthorised use of brick earth, which include ₹ 69.87 lakh being demand worked out short due to incorrect calculation of demand in contravention of provisions of brick earth concession rules. Further the Department by not recovering difference amount of cost is encouraging illegal use of brick earth.

The matters were pointed out to the Department and reported to the Government (October 2010). We are awaiting their replies (December 2011).

### **6.7.5 Illegal production of minerals**

As per rule 18(10) of the RMMCR, the lessee shall abide by all existing Acts and rules framed by the Government of India or the State Government and all such other Acts or rules as may be enforced from time to time in respect of working of mines and other matters affecting safety, health and convenience of the lessee's employees or of the public. Rule 16 and 17 of the Marble Development and Conservation Rules, 2002 envisage that no person shall commence mining except in accordance with an approved mining plan.

Under section 21 (4) of the Air (Prevention and Control of Pollution) Act, 1981 and section 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974, a lessee is required to obtain a consent to operate from the Rajasthan State Pollution Control Board (RSPCB) determining quantity of minerals that can be excavated during the prescribed period. Further, rule 48(5) of the RMMC Rules provides that whenever any person, without a lawful authority, raises and despatches any mineral, the AME/ME concerned may recover cost of such mineral computed as ten times the royalty payable at prevalent rates, along with the royalty on the mineral.

#### **6.7.5.1 Illegal production of minor minerals**

During test check of the records of four ME offices, we found (December 2010 to March 2011) that eight mining lease holders excavated minerals in

excess of the quantity authorised by the RSPCB as detailed below:

(₹ in lakh)

Sl. No.	Name of the ME office	Period	ML No. and mineral	Excavated/ despatched quantity (MT)	Quantity permitted by RSPCB (MT)	Excess quantity excavated (MT)	Recoverable amount of unauthorised quantity
1.	Sirohi	2008-10	226/89 Marble block	5,734	3,650	2,084	40.11
			Marble khanda	7,618	-	7,618	50.28
2.	-do-	2009-10	197/89 Marble block	8,686	5,475	3,211	61.81
3.	-do-	2008-09	120/91 Granite block	1,155	200	955	15.76
			Granite khanda	147	-	147	0.97
4.	-do-	2008-09	483/90 Granite block	4,287	3,650	637	10.51
			Granite khanda	755	-	755	4.98
5.	-do-	2008-09	252/89 Granite block	4,227	3,650	577	9.53
			Granite Khanda	719	-	719	4.74
6.	Ramganj mandi	2009-10	136/92 Masonry Stone	11,555	5,475	6,080	6.69
7.	Amet	2009-10	1198/91 Marble block luffers	2,962	840	2,122	40.85
8.	Jodhpur	1.07.2008 to 2.9.2008 3.9.2008 to 31.3.2009	347/05 Lime stone	320	-	320	1.94
			Lime stone	5,460	1,167	4,293	25.97
<b>Total</b>						<b>29,518</b>	<b>274.14</b>

Even though unauthorised excavation causes serious threats to environment and ecological balance, the concerned MEs issued *rawannas* for minerals for the quantity more than authorised by RSPCB. The Department had also not restricted issue of *rawanna* upto the quantity of mineral authorised by the RSPCB. Thus, ₹ 2.74 crore, being the cost and royalty of 29,518 MT of minerals excavated illegally by the lessees, were recoverable.

When we pointed out, ME, Sirohi and ME, Jodhpur stated (February-March 2011) that revenue loss had not occurred as the lessees despatched the minerals by valid *rawannas*. Whereas, the ME, Ramganjmandi and ME, Amet stated (December 2010 and January 2011) that position would be intimated to audit after examining the cases.

We do not accept replies as the excavation and despatch of minerals in excess of authorised quantity by RSPCB was contrary to provisions of the pollution and environment rules.

### 6.7.5.2 Mineral excavation without approval of mining plan

During test check of the records of three AME/ ME offices, we found (August-December 2010) from concession files and mining plans of the leases that holders of nine mining leases excavated and despatched 1065 MT mineral marble during the years 2007-08 to 2009-10 without any approved mining plan as envisaged in rule 16 and 17 of the Marble Development and Conservation Rules, 2002 which was violation of extent provisions. The lessees were furnishing monthly returns of production despite that the Department issued *rawannas* for mineral production and despatch without ensuring the approval of mining plan. The production of mineral marble without approved mining plan was illegal and attracted recoverable cost of mineral ₹ 170.05 lakh.

In response, the ME, Rajsamand-II stated (August 2010) that reasons of lapses would be investigated. While the ME, Udaipur stated (November 2010) that action would be taken by issuing notices under the provisions. AME, Banswara replied (December 2010) that mineral was despatched on *rawannas*. We do not accept reply as issue of *rawannas* for despatch of marble excavated from the area without approved mining plan was irregular.

These matters were pointed out to the Department and reported to the Government in September 2010 to January 2011. We are awaiting their replies (December 2011).

### 6.7.5.3 Illegal production of major minerals

As per condition 11 C of part VII of lease agreement executed under rule 31 of the MC Rules, the lessee shall take measures for the protection of environment and such other measures as may be prescribed by the Central or State Government. Rule 37 of the MCD Rules provides that air pollution during prospecting, mining, beneficiation or metallurgical operations and related activities shall be controlled and kept within 'permissible limits' specified under the Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986 by the holder of prospecting licence or a mining lease. Further, as per section 21(5) of the MMDR Act, the price, along with royalty, of the mineral, illegally excavated and disposed of, shall be recovered from the defaulter.

During test check of the records of the AME, Nimbahera, we observed (November 2010) from concession and royalty assessment files that lease holder of mining lease no. 9/2000 of mineral red ochre and china clay near village Hatipur was allowed (21 February 2007) production of 20 MT minerals red ochre/china clay per day by the RSPCB. However, the lessee produced 19,382 MT mineral during the period 01.01.2009 to 30.09.2009 (273 days) against the permitted quantity of 5,460 MT (273x20) violating the orders of the RSPCB. Thus, the excess production of 13,922 MT mineral over and above the allowed quantity was illegal, which attracted recovery of cost of mineral ₹ 25.06 lakh (13,922x180). The Department also did not keep in view the quantity authorised by RSPCB while issuing *rawannas*.

When we pointed out (November 2010), the AME, Nimbahera stated (November 2011) that action would be taken.

The matters were reported to the Department and Government (December 2010 and March 2011). We are awaiting their replies (December 2011).

### 6.7.6 Unauthorised excavation and despatch of mineral from forest

Apex Court issued (8 April 2005) directions for protection of the wild life and environment, restraining any kind of mining activity in forest of the Arawali Hills falling in the State. Rule 48 of the RMMC Rules stipulates that in case of illegal mining, cost of the mineral so excavated and despatched be recovered at ten times of prevailing royalty rates along with recovery of royalty. Further, the State Government issued (19.6.2000) instructions that the Mines Department will brought into notice of the Forest Department any illegal mining activity carried out in the forest areas.

**6.7.6.1** During test check of the records of the ME, Alwar, we noticed (August 2010) that contrary to the directions of the Apex Court and provision of the RMMC Rules 1986, illegal mining was being carried out at large scale in the forest area. The Senior Deputy Manager, RICCO, Bhiwadi, intimated (03 September 2009) to ME, Alwar that large quantity of mineral excavated from the forest area was being despatched to Haryana and Uttar Pradesh loaded in nearly

800 to 1,000 dumpers per day through industrial area, Bhiwadi. Each dumper carried mineral masonry stone nearly 50 to 60 MT. The facts were verified (03.11.2009) by Sub-Divisional Officer, Tijara (Alwar) and ME, Alwar. The ME, Alwar asked (30.12.09) Forest Conservator, Social Forestry, Alwar to check such illegal mining activities carried out in the forest areas. The ME, Alwar had also conducted 25 inspections during 5 June 2008 to 1 May 2010 and found evidence that illegal mining was taking place in the forest areas. The ME in his inspection note mentioned that pits existed in the forest areas and working of labourers and machinery deployed there. However, the ME did not mention any pit measurements for arriving at illegal excavated quantity of mineral. As per data available in ME, Alwar, at least 1.46 crore MT (800 dumpers x 50MT x 365 days) masonry stone had been illegally excavated and despatched, in absence of coordination among Revenue Transport, Forest, Police and Mines Departments, the cost along with royalty of such illegally excavated and despatched mineral during the year worked out to ₹ 208.78 crore (1,46,00,000x13x11). This caused loss of ₹ 208.78 crore to State Government as well as huge loss to wild life and serious threat to ecological balance in the forest area and nearby populace.

When we pointed out it, the ME accepted (September 2010) the facts and showed incapability to check such unauthorised excavation and despatch of minerals from the forest areas due to non-cooperation of the Forest Department, Transport Department and Police administration.

**6.7.6.2** During test check of the records of the ME, Karauli, we noticed (November 2010) that as per joint inspection (7.8.09) of officials of Forest Department and Mining Department, mineral sand stone slabs 1,09,455 MT had been excavated and despatched unauthorisedly from the forest area



resulting in loss of ₹ 6.02 crore (1,09,455 x 50 x 11) being cost and royalty of the mineral excavated and despatched unauthorisedly.

When we pointed out it (November 2010), the ME stated that after scrutiny, position would be intimated to audit. The reply furnished by the ME is not satisfactory as Mining Department and Forest Department had not taken timely action for prohibition of illegal mining.

In above cases, the State Government was deprived of the cost of mineral along with royalty ₹ 214.80 crore (₹ 208.78 crore + ₹ 6.02 crore) and serious threat was caused to wild life and environment.

The matters were reported to the Department and Government (October 2010 and December 2010). We are awaiting their replies (December 2011).

### **6.7.7 Non-raising demand of royalty and cost of mineral excavated and despatched unauthorisedly**

As per rule 18(9) (c) and 18(10) of the RMMC Rules, the lessee or any other person shall not remove or despatch or utilise the mineral from the mines and quarry without *rawannas*. The lessee shall abide by all existing Acts and Rules enforced by Government of India or the State Government and all such other Acts and Rules enforced from time to time in respect of working of mines and other matters affecting safety, health and convenience of the lessee's employees or of the public. Rule 48(5) of *ibid* rules provides that whenever any person, without a lawful authority raises mineral, the cost of mineral along with royalty shall be recovered. The cost of mineral will be computed as ten times of the royalty payable at the prevalent rates. Rule 66 of *ibid* rules further provides that any amount due to Government may be recovered as an arrear of land revenue.

During test check of the records of the ME, Ramganjmandi, we noticed (December 2010) that a mining lease no.20/93 for mineral lime stone (building stone) was effective in favour of M/s Milan Stone Company, Zulmi. As per inspection report (April and July 2009) of Senior Mines Foreman, a quantity of 8,82,942 ton mineral was found produced from the lease area. Whereas, the lessee had shown production of

5,53,199 ton only in the returns submitted to Department. The difference of 3,29,743 ton (8,82,942-5,53,199) in the quantity of building lime stone as per the inspection report and as per return submitted by contractor was unauthorised.

The cost along with royalty of differential quantity of unauthorised excavated mineral worked out to be ₹ 27.20 crore<sup>4</sup>.

We also found that Director General of Mines Safety, Ajmer had ordered on 25 February 2009, for closure of the mining activities under rule 22 (A) (2) of the Mines Act, 1952. The closure order was not found (December 2010) withdrawn. The Lessee however continued production despite ban on mining

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<sup>4</sup> (3,29,743 x 75 x 11).

activities, therefore, a legal notice was served (6.1.2010) by ME. Due to non-compliance of the notice, the lease was revoked (6.5.2010) forfeiting Security Deposit.

We noticed that during ban period the Department had issued *rawannas* for dispatch of mineral. As per the return submitted, the lessee had excavated and removed 22,803 ton of mineral lime stone during March 2009 to March 2010 which was illegal. The cost and royalty of such mineral worked out to ₹ 1.88 crore (22,803 X 75 X 11).

Thus, ₹ 29.08 crore (₹ 27.20 crore + ₹ 1.88 crore) being cost of illegally despatched mineral was recoverable from the lessee, for which the Department had not taken any action. The Department had not ensured actual quantity of mineral obtained and despatched from lease areas against the *rawannas* issued despite receiving monthly returns of production/dispatch by the Lessee.

When we pointed out it (December 2010), the ME, Ramganjmandi, stated (December 2010) that matter was referred (13.01.2010) to DMG. We do not accept reply because after lapse of nearly two years of the inspection of the lease area, no action/decision had been taken for recovering the amount of illegally excavated and despatched mineral.

The matter was reported to the Department and the Government in January 2011. We are awaiting their replies (December 2011).

### 6.7.8 Unauthorised excavation and use of minerals by Public Works contractors

As per Government order dated 3 October 2001 and 8 October 2008, the Public Works contractor shall have to obtain short term permit (STP), for the minerals to be used in the works, from the concerned ME/AME before starting the work. The contractor have to submit record for assessment of the royalty of the minerals used in work within 15 days of completion of the work. In case of use of mineral in work without STP, the concerned Works Department is responsible for depositing cost of the minerals used without STP. As per rule 63 of the RMMC Rules, cost of entire excess quantity of the minerals excavated and used shall be recovered, if such quantity exceeds 25 per cent over and above permitted in STP. The cost of minerals shall be 10 times of prevalent royalty as per rule 48 of *ibid* rules.

During test check of the records of four ME/AME offices, we found (between June 2010 and November 2010) that 63 work contractors in 79 works excavated/ consumed minerals masonry stone, *bajri*, ordinary soil, gravel *etc.* either without obtaining STP or more than 25 per cent of the quantity permitted in the STPs. The recoverable cost of the minerals alongwith royalty amounting to

₹ 7.03 crore was not recovered as tabulated below:

(₹ in lakh)

Sl. No.	Name of office	Number of		Recoverable cost and royalty amount	Remarks
		Works	Contractors		
1	AME, Jalore	70	57	614.62	STP not taken for minerals used in works.
2.	AME, Jaisalmer	3	2	50.88	-do-
3.	AME, Tonk	4	3	9.69	-do-
4.	ME, Makrana	2	1	27.53	Quantity of minerals used more than 25 per cent authorised in STP.
<b>Total</b>		<b>79</b>	<b>63</b>	<b>702.72</b>	

When we pointed out (June 2010 to November 2010), the AME, Jalore stated that action for recovery was being taken, while AME, Jaisalmer stated that royalty was not leviable as per Government order dated 8 October 2008. AME, Tonk stated that double royalty was deducted as per Government order dated 17.6.85, while reply remained awaited from ME, Makarana. We do not accept reply furnished by AME, Jaisalmer as STP was to be obtained prior to starting of the work. We also do not accept reply of AME, Tonk because Government order dated 17 June 1985 had become redundant after RMMC Rules, 1986 coming into effect.

The cases were sent to the Department and reported to Government (July 2010 to November 2010). We are awaiting their replies (December 2011).

### 6.7.9 Unauthorised mining by lessee

Section 22(3) and 22A(2) of the Mines Act, 1952 provide that where in respect of any matter relating to safety under the Act, the owner of a mine fails to comply with the provisions relating to mines and safety, the Chief Inspector may, by order, prohibit the employment of any person in the mine. Further, section 21(5) of the MMDR Act provides that whenever any person raises, unlawfully any mineral, the State Government may recover mineral so raised or the price thereof along with royalty.

During test check of the records of the Mining Engineer (ME), Rajsamand Division-II, we noticed (August 2010) from royalty assessment orders and returns submitted by lessee that a mining lease number 5/98 for mineral soap stone and dolomite was effective in favour of Shri Mahesh Mantri. The lease area was inspected on 18 July 2000 by Dy. Directors of Mines

Safety, Udaipur and serious and dangerous contraventions of the mines safety provisions were found during mining operations. Therefore, a prohibitory order for employment of workers was issued on 19 July 2000 by the Director General of Mines Safety (DGMS), Udaipur. The DGMS accorded permission on 08 May 2006 to commence rectification and prohibitory order was vacated on 16 April 2008.

We found that the lessee continued mining activities in violation of prohibitory order. The Department also issued *rawannas* for excavation/despatch of minerals. The mineral excavated and despatched during the period of prohibitory order (i.e. 19.7.2000 to 8.5.2006) was illegal, which requires recovery of cost of mineral ₹ 2.49 crore.

When we pointed out it, the AME stated (27 August 2010) that the lessee commenced the rectification job to remove the causes. Mining was not done in the prohibited area. We do not accept reply because the DGMS permitted to commence the rectification job on 8 may 2006 and finally vacated the prohibitory order on 16 April 2008. Hence excavation of mineral during 19.7.2000 to 8.5.2006 was illegal.

The matter was reported to the Department and reported to the Government (October 2010). We are awaiting their replies (December 2011).

### 6.7.10 Unauthorised excavation/despatch of minerals

Rule 48 (1) and (5) of the RMMC Rules provide that no person shall undertake any mining operation except under permission granted under these rules. Whenever any person, without a lawful authority, raises any mineral from any land and mineral so raised has already been consumed, the AME/ME concerned may recover cost of mineral along with royalty. The cost of mineral will be computed as ten times of the royalty at the prevalent rates. Further, rule 48(3) of *ibid* Rules provides that contravention of sub-rule 48(1) shall be punishable with imprisonment or with fine which may extend up to ₹ 5,000 or with both. The AME/ME may, either before or after the institution of the prosecution, compound the offence committed in contravention of sub-rule 48(1) on payment of such sum as he may specify. The unauthorised cases of mining should be lodged in court or recovery of the cost of the minerals be affected early. As per rule 18(9) (c) of the *ibid* rules, the lessee or any other person shall not remove or despatch or utilise the mineral from the mines and quarry without *rawanna*.

#### 6.7.10.1 Delay in taking action against unauthorised excavation/despatch of mineral

During test check of the records of the ME, Jodhpur, we noticed (March 2011) that 65 cases of illegal excavation/despatch of mineral 49,909 MT khandas and 34,895 MT sand stone worked out as per pit measurement, were entered in the illegal mining register. The *panchnamas* were prepared (June 2009 to February 2010) and notices were issued to the offenders for recovery of cost of the illegally excavated/despatched mineral and FIR was lodged except in 17 cases. Thus, the cost of mineral, as worked out by audit along with royalty, ₹ 2.08 crore<sup>5</sup> was recoverable.

When we pointed out, the ME stated (March 2011) that after finalisation of the *panchnamas*, recovery would be affected. We do not accept reply as even after

<sup>5</sup> (49,909x10x11+34,895x40x11)

lapse of more than one year of preparation of *panchnamas*, decision to recover the amount is pending.

The matter was pointed out to the Department and reported to the Government (March 2011). We are awaiting their replies (December 2011).

### 6.7.10.2 Non-raising demand of mineral excavated unauthorisedly

During test check of the records of ME, Udaipur and AME, Jalore, we noticed (September to November 2010) from concession files and panchanamas that four lease holders excavated and despatched mineral marble and granite from outside the lease areas by mis-using *rawannas*. In ME, Udaipur notices were not found issued for recovery of cost. However, the AME, Jalore issued notice (22.9.2010) after pointing out the matter by audit. The recoverable cost of illegally despatched minerals along with royalty worked out to ₹ 2.51 crore as detailed below:

(₹ in lakh)

Sl. No.	Name of the ME/ AME office	Lease No./ Mineral	Quantity of marble illegally despatched (MT)	Recoverable cost of mineral along with royalty (MT X 175 X 11)
1.	Udaipur	649/90 (Marble)	4,748	91.40
		880/89 (Marble)	3,245	62.47
		406/91 (Marble)	4,717	90.81
2.	Jalore	27/98 (Granite)	1,248	5.94
<b>Total</b>				<b>250.62</b>

On pointing out (September and November 2010) the ME, Udaipur stated that matter was pending since 23.10.2009 at Directorate level, while the AME, Jalore stated that for misuse of *rawannas*, notice for recovery of cost of mineral had been issued on 22.09.2010.

Matters were pointed out to the Department and reported (October and December 2010) to the Government. We are awaiting their replies (December 2011).

### 6.7.10.3 Unauthorised excavation of mineral marble

During test check of the records of the ME, Bikaner, we noticed (December 2010) that a lease No.64/2000 for mineral marble was effective in favour of Shri Amit Modi. The mining plan of the lease area was prepared in June 2004 and approved in June 2006. As per the mining plan, the maximum overburden was 5.5 metre, marble recovery including luffer and *khandas* was 80 per cent, of which 10 per cent mineral locked during mining. According to the mining plan 10,881 MT quantity of mineral marble had already been excavated and despatched from two pits. Thus marble recovered worked out to 7,834 MT (80 per cent of 10,881 MT less 10 per cent). However, the lessee paid royalty only for 2,585 MT marble mineral during the period up to March 2005. As such, 5,249 MT mineral was illegally despatched. As per mining plan, recovery of marble block was 30 per cent and rests were *Khandas*. Therefore, the unauthorised despatch of marble block worked out to 1,575 MT and of

*Khandas* to 3,675 MT. The cost of illegally despatched mineral along with royalty worked out to ₹ 45.33 lakh, which had not been recovered.

When we pointed out it, the ME stated that the mineral recovery factor was 20 to 30 *per cent*, however, inspection of the area would be conducted. We do not accept reply as recovery of mineral had been worked out on the basis of parameters shown in the mining plan, which are based on geological study and were duly approved by the Department.

The matter was reported to the Department and the Government (February 2011). We are awaiting their replies (December 2011).

#### **6.7.10.4 Non-recovery of cost illegally despatched mineral**

During test check of the records of ME, Sikar, we noticed (October 2010) that mining lease no. 8/91 for major mineral lime stone and two leases no. 26/93 and 27/93 for minor mineral marble were effective in favour of M/s Oriental Talc Products Pvt. Ltd. The lease area was inspected by Surveyor on 30 June 2008 and by AME on 1 July 2008. During inspections, it was found that the lease holder despatched mineral from dump site without obtaining STP. ME, Sikar prepared the case and sent (August 2008) to DMG. However, the cost along with royalty of 1905 MT (127x15) minerals despatched illegally, during the period 27.06.2008 to 30.06.2008, ₹ 11.53 lakh (1905x55x11) had neither been raised nor recovered even after a lapse of 28 months.

When we pointed out it, ME Sikar issued (06 January 2011) legal notice to lessee for depositing amount of illegally despatched mineral. Against the Legal notice, the lessee appealed to the Government. As per Government order (07 February 2011), the lessee had deposited (09 February 2011) 50 *per cent* amount of ₹ 5,44,500.

The matter was pointed out (November 2010) to the Department and reported to the Government. We are awaiting their replies (December 2011).

#### **6.7.11 Non-adherence to Government instructions**

Rule 32 of the RMMC Rules envisages that RCC/ERCC may be granted through tender. The State Government issued instructions in May 1962 stipulating that if any tenderer to whom a contract was allotted, defaulted in its execution, the Department could recover contract damages from him, provided that such clause was incorporated in the tender notice.

We noticed (November 2010) that the above mentioned damage clause was not incorporated by Mines Department in notice inviting tender (NIT) published for grant of RCC. The ME Karauli,

invited tenders for RCC for mineral *Bajri* for the period between 1 April 2009 and 31 March 2011. The highest tenderer M/s Shiva Corporation India Ltd. (contractor), who was awarded (March 2009) contract at ₹ 55.61 lakh *per annum*, defaulted in execution of contract. The contract was retendered and again granted (February 2010) to the same M/s Shiva Corporation India Ltd. at a lesser amount of ₹ 26.12 lakh *per annum*. In the absence of contract damages clause in NIT, the loss due to short realisation of amount could not be recovered from the defaulter. Moreover, no provisions were made in the

rules for debarring such defaulter contractors for participating in the tender process. Subsequently this resulted in loss of revenue to the State Government amounting to ₹ 22.54 lakh despite adjusting security ₹ 6.95 lakh.

When we pointed out it, the ME stated (November 2010) that he acted as per instructions of the DMG. We do not accept reply as the loss had occurred due to non-inclusion of contract damages clause in the tender notice.

The matter was reported (December 2010) to the Department and Government. We are awaiting their replies (December 2011).

#### **6.7.12 Irregular refund/adjustment of forfeited earnest money**

Rule 35(k) of the RMMC Rules, provides that if the provisionally selected tenderer fails to deposit the security money within the specified time, the earnest money deposited shall be forfeited. Further, rule 57 of *ibid* rules provides that any clerical or arithmetical mistake in any order passed by Government or any other officer and any error arising therein from accidental slip or omission may be corrected.

During test check of the records of the DMG, we noticed (January, 2011) that the earnest money of M/s Parth Network Private Limited amounting to ₹ 20 lakh deposited for sanction of excess royalty collection contract for mineral masonry stone for the area tehsil Bhilwara and Sahada of District Bhilwara was forfeited (05 March 2009) due to non-depositing of security money within the specified period. The order of forfeiting earnest money was rectified (24 November 2009)

by DMG under rule 57 of the RMMC Rules and the amount of earnest money, previously forfeited was ordered to be refunded/adjusted on the ground that tenderer wanted to participate in the tender for mineral sand instead of masonry stone. The rectification order (24.11.2009) of refunding earnest money was irregular and it extended undue benefit to the contractor. Further, the contractor had not raised any objection during opening of tender. The record revealed that the tenderer submitted tender for mineral masonry stone and failed to deposit security amount within stipulated period. So, the matter did not pertain to any clerical or arithmetical mistake, therefore, refund/adjustment of forfeited earnest money was irregular.

When we pointed out it (January 2011), the DMG stated (January 2011) that the refund/adjustment order was issued as per direction of the Government. We do not accept reply because the refund/adjustment of forfeited earnest money amounting to ₹ 20.00 lakh under rule 57 of *ibid* rules was irregular.

The matter was pointed out to the Department and reported to the Government in February 2011, their replies are awaited (December 2011).

### 6.7.13 Undue favours to lessee

Rule 43(2) and (4) of the RMMC Rules provide that any person aggrieved by any order passed by the Director under these rules shall have the right of appeal to the Government. The orders passed by the Government in appeal shall be final. Rule 18(3) of the *ibid* rules provides that the lessee shall pay yearly dead rent in advance.

During test check of the records of the AME, Banswara, we noticed (December 2010) that a mining lease number 1/96 for mineral marble was effective in favour of Shri Shanti Lal Maida. The lease was cancelled on 03 December 2003 on the

ground of non-payment of outstanding dues by the lessee forfeiting security deposit. The possession of mine was taken back on 19 December 2003.

The lessee approached the Government for resumption of lease stating that he was ready to deposit all dues shown against him on the basis of which lease was cancelled. After considering the appeal in court, the Deputy Secretary (DS), Mines remanded (10 January 2005) the case and asked the lessee to deposit all the dues along with interest thereon and 50 *per cent* amount of dead rent as penalty latest by 10 May 2005.

The lessee failed to comply order dated 10.01.2005 of the DS, Mines. Later on, after a lapse of more than four years, when the order dated 10.01.2005 had already attained finality, the lessee requested (26.08.2009) to the DS, Mines to extend the period of depositing dues. The DS, Mines accepted (17.09.2009) request of the lessee on the similar conditions of his previous order dated 10.01.2005. This was inconsistent to rules as there was no provision in the rules to review/revise the orders, after lapse of more than four years, by the same authority, particularly when earlier order had attained finality. The lessee paid dues amount ₹ 15.86 lakh in (September and October 2010) and lease was renewed in his favour.

Further, the dead rent, for the period from 11.05.2005 to 12.10.2009 amounting to ₹ 12.50 lakh was neither demanded by the Department nor deposited by the lessee. The dead rent was recoverable as the Government had decided (10.01.2005) to continue the lease in favour of lessee and again revived (17.09.2009) the order dated 10.01.2005 on the request of the lessee.

Thus, by reviving lease undue favour was given in favour of lessee after lapse of more than four years was not covered under rules. Moreover, dead rent ₹ 12.50 lakh was also not recovered from the lessee for the period 11.05.2005 to 12.10.2009.

When we pointed out it (December 2010), the AME, Banswara stated that possession of the lease area was taken by the Department on 19.12.2003 and given again to lessee on 12.10.2009. Hence, dead rent for the above period was not recoverable. We do not accept reply as the lessee had agreed to take possession and Government also ordered for assigning lease in his favour but lessee became defaulter in depositing the dues. Moreover, in this case the renewal of lease as per orders dated 17.09.2009 was against the rules.

The matter was pointed out to the Department and reported to the Government (January 2011), their replies are awaited (December 2011).



#### 6.7.14 Non-levy of penalty

As per rule 18(21)(a) of the RMMC Rules, in case of any breach of any covenant or condition contained in the lease by the lessee, the competent authority may determine the lease and take possession of the said premises forfeiting security money or in the alternative may impose a penalty at prescribed rates.

As per marble/granite policy, 2002, failure to deploy machinery in a period of one year, the competent authority may allow a further period of six months for deployment on payment of a penalty equal to 50 per cent of the annual dead rent.

During test check of the records of the AME, Jaisalmer, we noticed (October 2010) that in 61 mining leases, AME issued notices, of breaches of conditions of the lease/policy to the lessees in December 2009. The lessees did not remedy the breaches upto October 2010. In these cases, neither mining leases were determined nor were penalties levied. The leviable penalty amount worked out to ₹ 11.04 lakh.

When we pointed out it, the AME stated (October 2010) that action for recovery shall be taken after scrutinizing individual cases.

Matter was reported to the Department and to the Government (November 2010). We are awaiting their replies (December 2011).

#### 6.7.15 Non-raising demand of cost of mineral used at the stone crushers

Rule 69 of the RMMC Rules, provides that the assessing authority may summon any of the parties using and/ or dealing in the mineral in the State and may demand necessary information. Any person engaged in trading of minerals shall maintain a correct account of mineral purchased, stocked and sold for inspection, if required by assessing authority, failing which the assessing authority may recover cost, along with royalty, of the mineral from the trader as per rule 48(5) of the *ibid* Rules. The cost of the mineral will be computed as ten times the royalty payable at the prevalent rates.

During test check of the records of the ME, Ajmer, we noticed (July 2010) that during inspection of 19 stone crushers by Mines Foreman, between October 2003 and September 2008, total 8,810 ton mineral masonry stone and crusher grit was found at site, but the source of procuring the mineral was not intimated by the crusher owners

despite issuing show cause notices to them. The demand of cost of 8,810 ton mineral along with royalty ₹ 6.64 lakh as worked out by audit was not raised.

When we pointed out (July 2010), the ME stated (15.07.2010) that action for recovery would be initiated after examining the cases. We do not accept reply because notices have already been issued to the crusher owners but recovery was awaited from last two to seven years.

The matter was pointed out to the Department and reported to the Government (August 2010), their replies are awaited (December 2011).

## 6.7.16 Non-raising demand of dead rent and interest

### 6.7.16.1 Non-raising demand of differential amount of revised dead rent

The rates of dead rent were revised from 13.08.2009 under the section 9A (2) of the MMDR Act. Further, rule 64A of the MC Rules provides that lessee shall be liable to pay simple interest at the rate 24 *per cent* per annum on the delayed payments for the period of delay computing from 60th day of the due date.

During test check of the records of the ME, Sojatcity, we noticed (February 2011) that in 11 cases differential demand of dead rent amounting to ₹ 10.14 lakh as per revised rates was not raised. It also attracted recovery of interest ₹ 1.15 lakh (calculated upto 31.03.2010) for delayed period.

When we pointed out, the ME, Sojatcity replied that amount would be recovered.

Matter was reported to Government and Department (March 2011). We are awaiting their replies (December 2011).

### 6.7.16.2 Non-raising demand of interest

(i) During test check of the records of the AME, Sriganganagar, we noticed (September 2010) that though M/s Rajasthan State Mines and Minerals Ltd. had deposited premium charges belatedly ranging from 1028 days to 1705 days, yet the AME did not levy and recover interest amounting to ₹ 23.87 lakh on the late deposits.

When we pointed out, the Department stated (November 2011) that objected amount has been recovered.

(ii) During test check of the records of the AME, Jalore, we found (September 2010) that M/s Rajasthan State Mines and Minerals Ltd., holder of four leases for mineral Fluorspar did not deposit dead rent timely as per revised rates. The dead rent for the period from March 2000 to March 2010 were deposited on 20.09.2010. The Department did not calculate interest on delayed payment which worked out to ₹ 14.13 lakh.

When we pointed out, the AME stated (September 2010) that action for recovery would be taken.

Rule 61 of the RMMC Rules provides that interest at the rate of 15 *per cent* on all dues in respect of royalty, dead rent *etc.* shall be charged after 15 days from the date it becomes due.

**6.7.16.3** In 54 cases, demand of interest of ₹ 7.30 lakh (calculated up to 31 March 2010) on delayed payments was not raised.

When we pointed out it, the AME stated (September 2010) that the demand of interest had been raised. However, the details of recovery have not been intimated (May 2011).

Matters were reported to Government and Department (October 2010 and November 2010). We are awaiting their replies (December 2011).

## **B. Colonisation Department**

### **6.8 Incorrect calculation of cost of land in special allotment**

Rule 13A(1) of the Rajasthan Colonisation (Allotment and Sale of Government Agricultural Land in the Indira Gandhi Nahar Canal Colony Area) Rules, 1975 envisages that State Government may allot Government land by special allotment notifying the area available and its rate. The rates of land under special allotment shall be increased in same ratio as the increase in DLC rates of same class of land in the vicinity.

During test check (August 2010) of the records and information furnished by the Commissioner, Colonisation, Jaisalmer, we found that the Commissioner had notified (21.12.2001 and 14.12.2007) the land available for special allotment. The Dy. Commissioner (Colonization), Jaisalmer-I however in 21 cases wrongly charged the cost of special allotment of land at lower rate instead of prescribed rates of the same vicinity. It resulted in short

calculation of land ₹ 13.00 lakh.

When we pointed out (August 2010), the Dy. Commissioner Colonisation, Jaisalmer stated that action would be taken after reviewing the cost from the relevant records.

## **C. General Administration Department**

### **6.9 Non-recovery of rent from Government Companies/Statutory Corporations and Bank**

Rule 251 (a) of the Public Works Financial and Accounts Rules envisages that when a residential or non-residential building is let out to a private person, rent should be recovered monthly in advance at the market rate prevailing in locality for similar accommodation used for similar purpose. The lease should be sanctioned and entered into by the Head of Department. General Administration Department (Estate) issued 19.1.1998 order that interest at 12 *per cent* shall be recovered on outstanding rent. Further, the rent was to be increased as per the provisions of Rajasthan Rent Control Act (RRC Act) as amended from time to time, but where the RRC Act is not applicable, the rent shall be revised after every 5 years on the basis of reassessment of the rent by the PWD or an increase in rent by 25 *per cent*, whichever is less.

Public Works Department New Delhi made rent assessment (October 1994) of the area rented out to the Government Companies/ Statutory Corporations and Bank situated at Bikaner House, New Delhi.

Matter regarding non recovery of rent from Government companies/ statutory corporations and banks was incorporated in the Comptroller and Auditor General of India's Audit Report (Revenue Receipts) for the year ended 31st March 2003 at para 7.4 and discussed by the Public Accounts Committee (PAC) during

the year 2008-09. The PAC recommended to fix responsibility of erring

officers, The Government (August 2011) informed that the matter was very old and all erring officers had retired, therefore fixing responsibility on them is not possible now.

The Government further intimated that the cabinet had approved the revised rates of rent to be charged from Rajasthan State Road Transport Corporation (RSRTC), Rajasthan Tourism Development Corporation (RTDC), Rajasthan Small Industries Corporation Limited (RajSICO) on 10 August 2011. As per cabinet's decision rent is to be realised at rates revised retrospectively. Details of rent recoverable as per revised rates are mentioned in following table:-

(₹ in lakh)

Sl. No.	Name of the corporations/ companies	Occupied area (Sqm)	Rate of rent	Recoverable rent 2/2003 to 3/2010	Rent paid	Rent due
1.	Rajasthan State Road Transport Corporation (RSRTC)	2,093.85	₹ 20 per trip per bus	Information regarding number of Buses and trips not available. To be assessed by Department.		
2.	Rajasthan Tourism Development Coporation (RTDC)	2,225.87	0.29	24.76	Nil	24.76
3.	Rajasthan Small Industries Corporation Limited (RajSICO)	146.00	0.40	2.87	1.35	1.52
4.	State Bank of Bikaner and Jaipur (SBBJ)	40.12	0.15	6.12 (upto 20.5.2006) as building got vacated	Nil	6.12
5.	Rajasthan State Industrial Development and Investment Corporation (RIICO)	159.81	0.30 (Feb & March 2003 ) 0.54 (April 03 to March 2010 )	46.09	33.10	12.99
6	Rajasthan Co-operative Dairy Federation Limited	32.22	0.14	11.70	8.16	3.54
<b>Total</b>				<b>91.54</b>	<b>42.61</b>	<b>48.93</b>

The State Government even had not executed any rent agreement, in absence of which there is little scope for affecting recovery of rent. Director, Estate, responsible for recovery of rent of Government buildings had also not taken timely and regular action for recovery of rent. The Department had also not taken action for evacuation of accommodation against defaulter occupants.

Thus, due to let out of Government accommodations without entering into any lease deed, not pursuing the matter vigorously for recovery of outstanding rent the Government deprived of revenue ₹ 48.93 lakh, in spite of revision of rates retrospectively.

## **D. Public Works Department**

### **6.10 Failure of Department in revising the bid price resulted in loss of revenue**

As per clause 30 of the agreement executed with the bidder, if rates of toll tax are revised by the State Government during currency of the contract in comparison to rates on the basis of which reserve price has been calculated, the bid amount shall stand revised from the date of notification by the same ratio in which toll rates enhanced.

The State Government revised rates of Toll collection from 01 April 2009, However, the revised rates were not implemented by the Executive Engineer, Public Works Department Division-I Bharatpur for Toll collection on Bharatpur-Mathura (SH-01) bye-pass till date of audit. As a result, Government had been deprived of revenue of ₹ 73.35 lakh as detailed below:

1. Clause 30 of agreement with bidder provided that tender bid amount would be revised in the same proportion by which the reserve price enhanced and to be calculated at revised rates. The Executive Engineer, Bhartpur did not revise the reserve price from ₹ 247.00 lakh to ₹ 289.00 lakh and in turn enhance the bid price of bidder (Shri Sheesh Ram) from ₹ 248.20 lakh to ₹ 290.40 lakh. This resulted in loss of revenue of ₹ 14.07 lakh for the period 01 August 2008 to 31 July 2009.
2. As the tender bid during 01 August 2009 to 04 March 2010 could not be materialised and Department collected Toll at its own level at the old rates. As a result, there was a loss of revenue of ₹ 17.54 lakh calculated proportionately (17 per cent on bid price for 01 August 2008 to 31 July 2009) on actual Toll collection of ₹ 103.20 lakh during said period.
3. Department awarded Toll collection to bidder (Shri Sheesh Ram) for the period 05 March 2010 to 04 March 2011 for ₹ 245.52 lakh based on reserve price of ₹ 200 lakh calculated at old rates. Had the Department calculated reserve price at revised rate, the bid price would have been increased in proportion of revised rates (17 per cent) on the same analogy. Thus, there was a revenue loss of ₹ 41.74 lakh to the Government.

Thus, not implementing revised rates of collection of Toll tax by the Department resulted in loss of ₹ 73.35 lakh.

While accepting the facts, Executive Engineer, Division-I Bharatpur stated (April 2011) that action for enhancing rates of Toll collection could not be taken due to receipt of said notification (March 2009) belatedly (January 2011). We do not accept reply as revised rates were notified in Government Gazette part 4 (c) on 30 March 2009, the Department's plea of ignorance was not excusable.

The matter was pointed out to the Department and reported to the Government (August 2011). We are awaiting their replies (December 2011).

**(H. K. DHARMADARSHI)**  
**Accountant General**  
**(Commercial & Receipt Audit), Rajasthan**

**JAIPUR**  
**The**

**Countersigned**

**(VINOD RAI)**  
**Comptroller and Auditor General of India**

**NEW DELHI**  
**The**

