

CHAPTER-V

UNAUTHORISED EXCAVATION AND TRANSPORTATION OF MINERALS

5.1 Introduction

Section 21(5) of the MMDR Act, 1957 envisages that 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 along with royalty.

In the Mineral Resources Department, there is a Flying Squad in the DGM office at Raipur for prevention and monitoring of illegal excavation and despatch of minerals. The field staff posted at the District offices also detect cases of illegal excavation and despatch of minerals.

As envisaged in the MMDR Act and CGMM Rules, cases of illegal excavation and despatch of minerals are compounded by recovering the cost of mineral in case of major minerals and penalty up to ten times of royalty in case of minor minerals, respectively.

5.2 Unauthorised excavation

As per Rule 13(1) of the MCD Rules, 1988, every holder of a mining lease shall carry out mining operations in accordance with the approved mining plan. If the mining operations are not carried out in accordance with the mining plan, the Regional Controller, IBM or the authorised officer may order suspension of all or any of the mining operations. As per Rule 12(3), the scheme of mining shall be submitted to the Regional Controller at least one hundred twenty days before the expiry of the five years period for which it was approved on the last occasion. As per the instructions of the Government issued in July 2008, if mining activities were not carried out in accordance with the approved mining plan and if the lessee did not comply with the rules, the proposal for action to be taken is to be sent to the Regional Controller, IBM. Section 21(5) of MMDR Act, provides that 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.

A Flying Squad is working under the control of the DGM with a working strength of two to three persons out of the sanctioned strength of six posts. We noticed that no targets have been fixed for the Flying Squad for detection of cases of illegal mining. The Squad acts on the basis of grievances received at Government/DGM level.

We noted that during the period 2006-07 and 2010-11, 938 cases of unauthorised excavation and transportation were detected by the Flying Squad and penalty of ₹ 97.06 lakh was also recovered.

Our scrutiny of records of the test checked DDMA/DMOs revealed non-recovery of cost of minerals in case of unauthorised excavation and misuse of transit passes as discussed below:

5.3 Non-levy/recovery of cost of minerals on unauthorised excavation

5.3.1 Our test check of the mining lease case files of DMO Janjgir-Champa revealed that two lessees viz. M/s. Mangal Minerals and M/s. Dolomite Mining Corporation were granted (May 1995 and March 2002 respectively) lease for mining of dolomite. Since the lessees had not obtained environmental clearance, the Collector, Janjgir Champa issued (January 2009) orders for stoppage of mining activities. However, we noticed from the monthly returns that the lessees had unauthorisedly excavated and dispatched 27,840 MT of dolomite, during February and March 2009. In the case of M/s Dolomite Mining Corporation neither was any action taken by the DMO to stop the unauthorised excavation nor was the cost of excavated minerals (27,550 MT) amounting to ₹ 1.26 crore

recovered. In the case of M/s Mangal Minerals, penalty of ₹ 1.83 lakh was imposed (February 2010) on 290 MT of unauthorised excavated mineral but the same was not recovered even after lapse of 16 months (June 2011).

During the Exit Conference, the Government stated that since the lessees violated the conditions of the Environmental Act, legal proceedings against the lessees would be taken by the Environment Board. The Environment Board had also given environment clearance to M/s Dolomite Mineral Corporation w.e.f. 2 February 2010. The fact however remains that in one case the lessee continued mining operation and dispatched mineral from the lease area despite the order of the Collector to stop the mining activities and the Department did not recover the cost of the minerals whereas in the second case the penalty imposed has not been recovered.

5.3.2 Our test check of the mining lease case files and mining plan of DMO Raigarh revealed that a lessee, M/s Monnet Ispat Ltd., was granted lease for excavation of coal in Raigarh District. As per the approved mining plan, the excavation of coal from seam III was to be done from 2009-10 onwards. However, scrutiny of records revealed that the lessee had excavated 8,56,781 MT of coal during the period 2006-07, 2007-08 and 2008-09 over and above the quantity mentioned in the approved mining plan. Thus the coal excavated by the lessee was unauthorised and cost of the excavated coal amounting to ₹ 54.75 crore was recoverable from the lessee. The DMO Raigarh neither initiated any action against the lessee for excavating the coal in violation of the mining plan nor took any action for recovery of the cost of excavated coal valuing ₹ 54.75 crore.

During the Exit Conference, the Government stated that the mining plan for coal is approved by the Coal Controller and action against the lessee for violation of the plan would be taken by the Government of India. The State Government has also sent a report regarding production in excess of the quantity shown in the mining plan to the Government of India in October 2011.

5.3.3 During test check of the mining lease case files and mining scheme of DMO, Surguja we noticed (May 2011) that Barima Bauxite Mines (Area 11.705 hec. and 80.414 hec.) were leased out to Chhattisgarh Mineral Development Corporation, a State PSU, from September 1999 for a period of 20 years. The approved mining scheme expired in March 2009. As per Rule 12(3) of the MCD Rules, the lessee was required to submit a new mining scheme for approval by November 2008. We observed from the records that the lessee had submitted the mining scheme to IBM for approval in November 2010 i.e. after a delay of 24 months. As the Mining Plan was not found fit for approval, IBM returned (January 2011) the same with the instruction to resubmit a fresh mining scheme. The mining scheme was still pending for approval till the date of audit (May 2011). During this period the lessee had excavated and dispatched 2,32,695.51 MT of bauxite unauthorisedly from the leased area without having an approved mining scheme. Thus the cost of the mineral amounting to ₹ 7.59 crore was recoverable from the lessee. The DMO Surguja however neither took any action to stop the unauthorised excavation nor recovered the cost of the excavated minerals.

After this was pointed out in Audit, the DMO stated that issue of transit passes has been stopped from December 2010.

During the Exit Conference, the Government stated that proceedings against the lessee has been initiated under Rule 13(1) of MCDR 1988. The lessee had also vide letter dated 7.9.2011 informed that the mining scheme has been submitted for approval on 27.6.2011 and had stopped excavation of minerals.

5.4 Short/excess transportation of bauxite

During scrutiny of information furnished by DMO Surguja on details of dispatch of bauxite from the railway siding at Meralgram we noticed (December 2011) that a lessee, M/s HINDALCO Ltd., had three leases (Samri, Kudag and Tatijharia) and had dispatched bauxite by road to Meralgram railway siding (Jharkhand) which was further transported by rail to its own captive plant at Renukut (Uttar Pradesh). As per the information received from the DMO, the lessee had an opening balance of 67,520 MT of bauxite during 2006-07 at Meralgram railway siding and had dispatched 5,92,126.07 MT of bauxite from the lease area. Cross verification of this figure with information regarding dispatch from the railway siding¹ revealed that the lessee had transported 6,35,227.8 MT bauxite by rail to the Renukut plant. Thus, as per the above, the lessee should have had closing stock of 24,418.27 MT of bauxite. However, as per the information furnished by the DMO, the closing stock at the end of the year 2006-07 was 20,191.03 MT instead of 24,418.27 MT. which implies that although 4,227.24 MT of bauxite was dispatched from the mine, the same was not transported to the Renukut plant by the lessee and the possibility of diversion of the mineral for other purposes cannot be ruled out.

Similarly, the lessee had opening balance of 20,191.03 MT at the beginning of 2007-08 and had dispatched 5,22,806.34 MT of bauxite from the lease area. Cross verification of this figure with information regarding dispatch from the railway siding however revealed that the lessee had dispatched 5,44,013 MT of bauxite. Hence, the lessee should have had closing stock of 3,211.57 MT of bauxite. As per the information furnished by the DMO, the closing stock at the end of the year 2007-08 was 5,221.41 MT as against 3,211.57 MT of bauxite which implies that 2,009.84 MT of bauxite was illegally transported to Meralgram railway siding. Thus, the cost of mineral amounting to ₹ 7.93 lakh was recoverable from the lessee.

During the Exit Conference, the Government stated that in the year 2006-07 there was no loss of royalty and for the year 2007-08, directions have been given to the DMO to examine the records and take necessary action. We do not agree as the reasons for the difference of 4,227.24 MT of bauxite for the year 2006-07 have not been explained and reconciled.

¹ Information furnished by PD (Railway Audit) Hajipur

5.5 Transit pass (TP)

5.5.1 Double use of transit pass

To prevent leakage/evasion of revenue, the CGMM Rules envisage that the lessee or any other person shall not dispatch the mineral from the leased area without a valid transit pass (TP) issued by the concerned MO. Further, as per Rule 29(7) the original copy of the TP shall be given to the driver of the carrier and the carbon copy shall be retained in the TP book. The TP book is filled up by using carbon paper between both the copies so that the original entry is entered in the second copy also. The TP shall be signed by the person issuing the TP with date. Omission to write the date and time of presenting the TP at the check post or overwriting on the TP attracts penalty. Only one transit pass shall be issued to one carrier for each trip. At the mining check post, information furnished in the TP is required to be registered in the check post register.

Our scrutiny of the check post register and used TP books of two² DDMA/DMOs, revealed that in two check posts (Mura and Mandir Hasaud) 12 lessees had reused their TPs in 40 cases and dispatched 581 MT of limestone and 18 cu.mt. of *murrum* by reusing the TPs. In all these cases the transit time and/or vehicle numbers were different from those shown in the original TP. Thus, transportation of such minerals was illegal. The Department failed to scrutinise the TPs at the check post and allowed the vehicles with these invalid TPs to pass through the check post though these TPs were already registered in the records. Penalty of ₹ 3.39 lakh leviable was also not levied.

During the Exit Conference, the Government stated that the irregularities noticed by Audit were mainly due to improper maintenance of registers for which show cause notices have been issued to the check post staff. The cases pointed out by Audit were reviewed and show cause notices have been issued to the lessees who failed to produce the evidence.

5.5.2 Irregularities in use of TPs

During scrutiny of records of DMO, Bilaspur, we noticed the following irregularities in case of two lessees:

- In 11 TPs carbon paper was not used.
- In 15 cases, both the copies (i.e. original and duplicate) were not found in the TP book.

² Bilaspur and Raipur

- The Transit Pass should contain the details like the name of the mine, district, name of the mineral and its grade, name of the lease holder, name of the consignor, date and time of dispatch, destination of dispatch, quantity of mineral, sale value of mineral, name and registration number of owner/carrier, signature, etc. However, we noticed that in 11 cases the date, time and name of the purchaser were not mentioned in the TPs.
- In two cases quantity of mineral was not mentioned in the TPs.
- In eight cases the TP was not signed by the Mine Manager.

During the Exit Conference, the Government accepted the audit observation and stated that blank transit passes have been cancelled and a register for watching used TPs is being maintained.

5.6 Recommendations

- *The Government may consider issuing instructions to ensure that mining is carried out strictly in accordance with the approved mining plan and to establish a monitoring mechanism to detect unauthorised mining.*
- *The Government may consider evolving a monitoring mechanism to watch whether mineral dispatched from the lease area is consumed in the captive plant.*
- *The Government may prescribe a system of cross verification of used TPs with the check post records at the time of assessment to prevent reuse of TPs.*