

Chapter- VII Mining Receipts

7.1 Tax administration

The Mineral Resources Department functions under the overall charge of the Secretary Mining, Government of Madhya Pradesh. The Director, Geology and Mining, is the head of the Department who is assisted by Deputy Directors at Headquarters and District Mining Officers (DMOs) at the district level. The DMOs are assisted by Assistant DMOs and Mining Inspectors. The DMOs, Assistant DMOs and Inspectors are under the administrative control of the Collector at the district level.

7.2 Working of Internal Audit Wing

Internal audit is a vital arm of internal control mechanism and is generally defined as the control of all controls. It helps the organisation to assure that the prescribed systems are functioning reasonably well.

We observed that no internal audit wing existed in the Department. In the absence of this, internal audit of the mining units was not conducted during the period 2009-10 to 2013-14.

7.3 Results of audit

Test check of the records of 23 units out of 51 units relating to Mining Receipts during 2013-14 revealed non/short realisation of revenue and other irregularities involving ₹ 196.58 crore in 531 cases which fall under the following categories as depicted in the **Table-7.1**.

Table - 7.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of dead rent/royalty	185	12.40
2.	Non-assessment of rural infrastructure and road development tax	30	2.03
3.	Short realisation of contract money in trade quarries	71	3.72
4.	Non levy of interest on belated payments	204	0.84
5.	Other observations	41	177.59
Total		531	196.58

During the course of the year, the Department accepted non/short realisation/levy of revenue and other deficiencies of ₹ 188.97 crore in 328 cases, which were pointed out in audit during the year 2013-14 and recovered ₹ 1.73 crore in 60 cases.

A few illustrative cases involving ₹ 26.29 crore highlighting important audit findings are mentioned in the following paragraphs.

7.4 Audit observations

We scrutinised application fee for lease/permit/prospecting license, royalty, dead rent, interest for belated payments of dues and road development tax in District Mining Offices and found several cases of non observance of the

provisions of the Acts/Rules, non/short levy of dead rent/royalty/contract money/road development tax and other cases mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the assessing authorities have been pointed out in earlier Audit Reports, but not only do these irregularities continue to persist; these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

7.5 Non/short realisation of dead rent of quarry lease

According to Rule 30 (1) (a) of Madhya Pradesh Minor Mineral Rules (MPMMR), 1996, every lessee shall pay yearly dead rent for every year, except for the first year, at the rates specified in Schedule IV, in advance for the whole year, on or before the twentieth day of the first month of the year. Further, condition no. 26 of this rule provides that in case of breach by lessee of any of the conditions specified in this rule, the Collector/Additional Collector shall give notice in writing for breach committed by lessee and direct him to remedy the breach within 30 days from the date of notice and if the breach is not remedied or shown proper cause, the sanctioning authority may determine the lease and forfeit the whole or part of the security deposit or in the alternative may receive from the lessees such penalty for the breach not exceeding four times the amount of the said half yearly dead rent as the lessor may fix.

We observed (between August 2013 and February 2014) during scrutiny of individual files of lessees of 16 DMOs¹ that 107 quarry lessees out of 625 test checked had paid dead rent of ₹ 26.53 lakh against the payable amount of ₹ 3.32 crore for the period from January 2007 to December 2013. The Department did not take any action to recover the unpaid balance of Government money. This resulted in non/short realisation of dead rent of ₹ 3.05 crore as given in **Annexure-XVI**.

After we pointed out the cases (between August 2013 and February 2014), DMO Bhind and Rewa stated that recovery would be made by issuing demand notices. DMO Datia and Shivpuri stated that audit would be intimated after recovery. DMO, Hoshangabad stated that recovery of dead rent is being made as per rule and recovery is not pending. We do not agree with the reply as the lessee (M.P. State Mining Corporation) was sanctioned quarry lease of sand on 22.9.2010 for 10 years with retrospective effect from 3.10.2005 and as per rule, the lessee was required to pay the dead rent for every year except first year of sanction of lease. Other DMOs stated that action for recovery would be taken after scrutiny.

We reported the matter to the Department and the Government between September 2013 and March 2014, their replies have not been received (December 2014).

7.6 Non realisation of dead rent of mining lease

According to Section 9A (i) of Mines and Minerals (Development and Regulation) Act 1957, and rules made thereunder, every lessee of mining lease has to pay dead rent every year to the State Government at the rates prescribed in Schedule III of the Act in respect of all areas included in the lease provided that where the lessee becomes liable to pay royalty for any mineral removed or

¹ Badwani, Bhind, Bhopal, Chhindwara, Datia, Dhar, Gwalior, Hoshangabad, Jhabua, Khargone, Mandla, Neemuch, Rewa, Shivpuri, Singrouli and Umaria

consumed, he shall be liable to pay either such royalty or the dead rent in respect of that area, whichever is greater. Further, according to Rule 27 (conditions) sub rule (5) of Mineral Concession Rules (MCR), 1960, if the lessee makes any default in the payment of royalty or dead rent as required under Section 9 of the Act *ibid*, the State Government shall give notice to the lessee requiring him to pay the royalty or dead rent within sixty days from the date of receipt of the notice and if the royalty or dead rent is not paid, determine the lease and forfeit the whole or part of the security deposit.

We observed (October 2013) during scrutiny of case files of lessees in District Mining Office, Chhindwara that one lessee out of 18 test checked holding mining lease of major minerals had not paid the amount of dead rent of ₹ 5.23 lakh due for the year 2012 and 2013. The DMO did not issue demand notice to recover the dead rent. This resulted in non realisation of dead rent of ₹ 5.23 lakh.

After we pointed this out (October 2013), DMO Chhindwara stated that action of recovery would be taken after scrutiny.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.7 Non/Short realisation of contract money

According to Rule 37 (i) of Madhya Pradesh Minor Mineral Rules, 1996 and condition no. 5(i)/ 9 of the contract agreement for trade quarry stipulates that every contractor has to pay contract money to the State Government on the scheduled date. If the contract money remains unpaid for more than one month, the contract will be cancelled and quarry may be re-auctioned. Consequently, upon re-auction of the quarry, if the Government sustains any loss, the same was to be recovered from the defaulting contractor as arrears of land revenue.

We observed (between August 2013 and January 2014) during test check of the 219 case files, challans, agreement of trade quarries of 11 DMOs² for the period 2011-13 that contract money of ₹ 4.08 crore was due for payment whereas the contractors paid an amount of ₹ 1.07 crore only. The Department had neither initiated any action to realise the contract money nor cancelled the contract and re-auctioned the same. This resulted in non/short realisation of contract money of ₹ 3.01 crore as given in **Annexure-XVII** from 43 contractors.

After we pointed this out, the cases (between August 2013 and January 2014), DMO, Rewa stated that action of recovery would be taken after issuing demand notices to contractors. DMO Bhopal, Narsinghpur and Shivpuri stated that audit would be intimated after action for recovery. District Mining Officer, Khargone and Mandla stated that action would be taken after scrutiny.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.8 Short realisation of royalty

7.8.1 Mining lease

According to Section 9 (i) of Mines and Minerals (Development and Regulation) Act 1957, every lessee of a mining lease has to pay royalty in respect of minerals removed or consumed by him from the leased area, at the

² Badwani, Bhopal, Chhindwara, Datia, Dhar, Gwalior, Khargone, Mandla, Narsinghpur, Rewa and Shivpuri

rates specified in the Schedule-II of the Act. Further, as per instructions issued by Director, Geology and Mining (DGM) in September 2005, assessment of tax for every half year period January to June and July to December should be completed by 30th of July and January respectively.

We observed (October 2013) during scrutiny of case files, assessment and annual production statement in three DMOs³ that out of 42 lessess, four lessees had paid ₹ 1.14 crore between May 2005 and July 2013 for consumption/transportation of Dolomite, Limestone and Rock phosphate against the payable amount of royalty ₹ 1.69 crore. DMOs did not initiate action to recover the outstanding amount of royalty till the date of audit. This resulted in non realisation of revenue of ₹ 55.12 lakh. Had the DMOs scrutinised the returns on time as per instructions of DGM, delay in realisation of royalty could have been avoided.

After we pointed out the cases (October 2013); DMO, Narsinghpur stated that audit would be intimated after issue of notice of demand to contractors. DMO, Jhabua stated that notice of demand would be issued after scrutiny of the cases and DMO Chhindwara stated that the action of recovery would be taken after scrutiny.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.8.2 Quarry lease

As per general conditions of quarry lease contained in Rule 30 (1) (b) of Madhya Pradesh Minor Minerals Rules, 1996, lessee shall pay the dead rent or royalty in respect of each mineral whichever is higher in amount but not both in respect of each mineral. The lessee shall pay royalty in respect of quantities of mineral intended to be consumed or transported from the leased area, no sooner the amount of dead rent already paid equals the royalty on mineral consumed or transported by him. Further, condition no. 26 of this rule provides that in case of breach by lessee of any of the conditions specified in this rule, the Collector/Additional Collector shall give notice in writing for breach committed by lessee and direct him to remedy the breach within 30 days from the date of notice and if the breach is not remedied or shown proper cause, the sanctioning authority may determine the lease and forfeit the whole or part of the security deposit or in the alternative may receive from the lessees such penalty for the breach not exceeding four times the amount of the said half yearly dead rent as the lessor may fix.

We observed (between August 2013 and February 2014) during scrutiny of case files and returns of quarry lease holders in nine DMOs⁴ that 13 lessees out of 229 test checked had paid royalty of ₹ 2.87 crore in respect of mineral removed between January 2009 and December 2013 against payable amount of ₹ 3.55 crore detailed in **Annexure-XVIII**, which resulted in the short realisation of royalty of ₹ 67.84 lakh. DMOs did not initiate any action to recover the revenue.

³ Chhindwara, Jhabua and Narsinghpur

⁴ Barwani, Bhind, Datia, Gwalior, Hoshangabad, Narsinghpur, Neemuch, Shivpuri and Singroli

After we pointed out the cases (between August 2013 and February 2014), DMO, Bhind, Neemuch and Singroli stated that audit would be intimated after recovery. DMO Datia, Narsingpur and Shivpuri stated that notices of demand would be issued for recovery. DMO, Badwani, and Hoshangabad stated that recovery would be made after scrutiny.

We reported the matter to the Government and Department in May 2014; their replies have not been received (December 2014).

7.8.3 Trade quarry.

According to condition no. 5(2) of Rule 37 of Madhya Pradesh Mines and Minerals Rules, 1996 if the contractor extracts or carries away any quantity of minerals exceeding the prescribed quantity, he shall be liable to pay royalty at the prevalent rate for such excess quantity extracted or carried away. If the contract money or any other amount remains unpaid for more than one month, the contract will be cancelled and quarry may be re-auctioned. Consequently, upon re-auction of the quarry, if the Government sustains any loss, the same was to be recovered from the defaulting contractor as arrears of land revenue.

We observed (October 2013) during scrutiny of the case files and return of contractors of trade quarries in DMO, Narsinghpur that one contractor out of 20 test checked had paid royalty of ₹ 46.59 lakh against payable amount of ₹ 53.33 lakh during the period of April 2011 to March 2013 for removed quantity of mineral. The DMO did not initiate any action against the contractor to recover the outstanding amount of royalty. This resulted in short realisation of revenue of ₹ 6.74 lakh.

After we pointed out the case DMO, Narsinghpur stated (October 2013) that recovery would be made from the contractor.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.9 Non/Short realisation of interest on belated payments

- **Short levy/realisation of interest on belated payments of quarry lease**

As per Rule 30 (i) (d) of Madhya Pradesh Minor Mineral Rules, 1996, every lessee of quarry lease is required to pay dead rent to the State Government on or before the 20th day of first month of the year, failing which the lessee is liable to pay interest at the rate of 24 *per cent* per annum till the default continues, besides any penal action to be taken under the rules.

We observed (between September 2013 and January 2014) during scrutiny of case files related with dead rent and royalty in respect of quarry leases in 10 DMOs⁵ that 65 lessees of quarry lease out of 453 test checked had delayed payment of dead rent ranging from 20 to 1,415 days and paid interest ₹ 0.66 lakhs against the payable amount of ₹ 11.58 lakh. The DMOs did not take any action for realisation of interest on these belated payments. This resulted in short realisation of interest of ₹ 10.92 lakh.

⁵ Barwani, Bhopal, Chhindwara, Datia, Dhar, Gwalior, Jhabua, Narsinghpur, Rewa and Shivpuri

After we pointed out the cases (between September 2013 and January 2014) five DMOs⁶ stated that audit would be intimated after recovery of interest amount. Other DMOs stated that recovery would be made after scrutiny of the cases.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

- **Non/short realisation of interest on belated payments of trade quarry**

According to Rule 37(1) Madhya Pradesh Minor Mineral Rules, 1996 and condition no. 5 (i) of the contract agreement, contractors of trade quarries are required to pay contract money on or before the date indicated in their contract agreement failing which, the contractor is liable to pay in addition to the contract money, interest at the rate of 24 *per cent* per annum till the default continues.

We observed (between September 2013 and February 2014) during scrutiny of the case files, contract money in respect of trade quarries in 11 DMOs⁷ that 49 contractors out of 220 test checked had delayed the payment of contract money for the period ranging from five to 530 days and paid interest of ₹ 0.18 lakh against the payable amount of ₹ 31.12 lakh. The DMO did not initiate the action for levy of interest on the delayed payments. This resulted in non/short levy of interest of ₹ 30.94 lakh.

After we pointed out the cases (between September 2013 and February 2014), DMO, Narsinghpur, Singrauli and Shivpuri stated that recovery would be made after issuing demand notices. Other DMOs stated that recovery would be made after scrutiny.

We reported the matter to the Government and Department in May 2014; their replies have not been received (December 2014).

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

As per Rule 13(1) of Mineral Conservation and Development 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, Indian Bureau of Mines (IBM) or the authorised officer may order suspension of all or any of the mining operations. Further, Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 envisages that whenever, any person raised 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.

We observed (between October and November 2013) from the *Khatonis*, case files, challans relating to mining leases in DMOs Jhabua and Mandla that out of 48 lease holders, two mining lease holders excavated during the year 2010

⁶ Bhopal, Datia, Jhabua, Narsinghpur and Rewa

⁷ Barwani, Bhopal, Chhindwara, Datia, Dhar, Gwalior, Mandla, Narsinghpur, Singrauli, Shivpuri and Umariya

to 2012 in excess of limits prescribed in the approved five years mining plan without the prior approval of revised mining plan. We further observed that the prescribed periodic returns were not found to be submitted. Further, cost of minerals were neither worked out nor demanded by the Department. Thus, excavation over and above the approved quantity was illegal, which attracted recovery of cost of minerals amounting to ₹ 99.08 lakh as given in **Annexure XIX**.

After we pointed out the cases, DMO Jhabua and Mandla stated (between October and November 2013) that action would taken as per rule after issuing demand notices to the concerned lessee.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.11 Levy and collection of rural infrastructure and road development tax

7.11.1 Non realisation of rural infrastructure and road development tax

According to the provisions of Madhya Pradesh Rural Infrastructure and Road Development Act, 2005 and notification (September 2005), rural infrastructure and road development tax at the rate of five *per cent* per annum of the market value of major minerals produced after deducting amount of royalty actually paid by the lessee. The Act further provides that the competent authority shall assess the sale value of minerals on the basis of returns/accounts submitted by the lessees and shall assess and demand the tax by the end of May each year. In case of non-payment of tax, competent authority shall, under Section 4(2), impose penalty not exceeding three times of the tax payable, but not before giving a reasonable opportunity to the assesses of being heard. According to Sub-Section 5 of Section 4 of the Act *ibid*, the competent authority shall recover the amount of tax and penalty, if not paid, as the arrears of land revenue.

We observed (October 2013) during scrutiny of case files of major minerals in respect of mining leases in DMO, Shivpuri that a lessee had paid road development tax of ₹ 2.29 lakh against the payable amount of ₹ 8.36 lakh. This resulted is non-realisation of tax of ₹ 6.07 lakh as detailed in **Annexure-XX** besides penalty under the act. The DMO, Shivpuri neither issued demand notices nor initiated any action under the provisions of Act to recover the amount of tax.

After we pointed out the case, DMO, Shivpuri stated (October 2013) that recovery would be made after issuing demand notice.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.11.2 Non payment of rural infrastructure and road development tax on idle mines

According to the provisions of Madhya Pradesh Rural Infrastructure and Road Development Act, 2005 and notification of September 2005, rural infrastructure and road development tax at the rate of five *per cent* per annum of the market value of major minerals produced after deducting amount of

royalty actually paid by the lessee and ₹ 4,000 per hectare per year in case of idle mines is to be levied on lessees holding mining leases.

We observed (between September 2013 and January 2014) during scrutiny of the case files of major minerals in respect of mining leases in four DMOs⁸ that out of 86 leases, 14 lessees had not paid road development tax for the period October 2005 to March 2013 of ₹ 5.16 lakh on idle mines. The DMOs neither issued demand notices nor initiated any action under the provisions of Act to recover the amount of tax. This resulted in non-realisation of tax of ₹ 5.16 lakh as detailed in **Annexure-XXI** besides penalty is also leviable under the act.

After we pointed out the cases, DMO, Datia stated (September 2013) that the matter has been sent to Government for cancellation of mining leases of idle mines and due recovery. Whereas DMO Mandla stated (November 2013) that recovery would be made after issuing demand notice. Other DMOs stated that action would be taken/recovery would be made after scrutiny.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.12 Levy and collection of Stamp Duty and Registration Fees

7.12.1 Short levy of Stamp Duty and Registration Fees due to incorrect determination of average annual royalty

According to the instructions of Government of Madhya Pradesh (March 1993), Mineral Resources Department, Stamp Duty and Registration Fees are leviable on average annual royalty on new mining lease to be calculated on the basis of mineral to be extracted as shown in the application for mining lease or the production given in the mining plan, whichever is higher. Further, as per Section 33 of Indian Stamp Act, 1899 the amount of Stamp Duty shall be levied five times on the market value of average annual royalty for the lease period 20 to 30 years.

During examination of case files of mining lease of DMO Mandla and Neemuch, we noticed that while sanctioning mining leases for a period of 20 to 30 years, lease deed were executed/registered (between December 2010 and June 2011) on the basis of the average production of the first five years as shown in the mining plan instead of the average of the proposed production for the complete lease period as per the instruction *ibid*. The lessee of dolomite and limestone had paid Stamp Duty and Registration Fees amounting to ₹ 47.48 lakh as against the leviable amount of ₹ 7.02 crore as detailed in **Annexure-XXII**. This resulted in short levy/recovery of Stamp Duty and Registration Fees of ₹ 6.54 crore. The District Registrar and Sub Registrar did not also ensure correct realisation of Stamp duty and Registration fees at the time of registration of the lease agreements. Similar nature of para was brought to the notice of Government in Audit Report 2012-13, yet the Department has not taken action to check such persistent irregularities.

After we pointed out the case DMO, Neemuch stated (January 2014) that action would be taken as per rule by obtaining guidance from the Government, whereas DMO, Mandla stated (November 2013) that action would be taken after scrutiny as per rule.

⁸ Barwani, Chhindwara, Datia and Mandla

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.12.2 Short realisation of Stamp Duty and Registration Fees

According to the instructions issued by Mineral Resources Department, Government of Madhya Pradesh in March 1993, full amount of contract money shall be treated as premium for the purpose of levy of Stamp Duty. Besides, as per Indian Registration Act, 1908 Registration Fee shall be levied at the rate of 75 per cent of Stamp Duty.

We observed (between September and October 2013) during test check of case files of trade quarry in DMO Bhind and Datia regarding leases sanctioned to MP State Mining Corporation Limited (MPSMCL) that the corporation entered into an agreement with seven contractors between March 2013 and March 2015 for the period of two years for ₹ 123.77 crore. Stamp Duty of ₹ 6.18 crore and Registration Fees of ₹ 4.64 crore was leviable and recoverable in this contract. MPSMCL, however, executed a contract on a stamp paper of ₹ 100 in each case. This resulted in short realisation of revenue of ₹ 10.82 crore to the Government as detailed in **Annexure-XXIII**.

After we pointed out the case DMO, Bhind stated (October 2013) that audit would be intimated after taking necessary action for recovery whereas DMO, Datia stated (September 2013) that the paragraph related to MPSMCL and therefore the objection was not acceptable. We do not agree with the reply of DMO, Datia as MPSMCL was a lessee of the Mineral Resources Department and it was the responsibility of the lessee to pay all Government dues as per rules.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (2014).

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