

CHAPTER-VII: NON-TAX RECEIPTS

7.1 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 wildlife. The total revenue and non-tax revenue raised by the State Government during the years 2008-09 to 2012-13 were 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
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
2011-12	34,552.15	9,175.10	26.6
2012-13	42,636.24	12,133.59	28.5

Share of non-tax revenue has been growing steadily in comparison to total revenue realised during last five years ending March 2013 due to receipt of royalty on crude oil.

7.2 Analysis of arrears of revenue

The arrears of revenue of mining receipts (excluding arrears of illegal excavation/despatch of minerals) as on 31 March 2013 amounted to ₹ 451.84 crore, of which ₹ 72.11 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue as on 31 March 2013.

(₹ in crore)

Year of arrear	Total arrears as on 1 April 2012	Recovery during the year 2012-13	Recoveries outstanding as on 31 March 2013
Up to 2007-08	74.50	2.39	72.11
2008-09	79.82	2.67	77.15
2009-10	96.49	3.55	92.94
2010-11	107.22	5.72	101.50
2011-12	134.56	26.42	108.14
Total	492.59	40.75	451.84

The efforts for recovery of arrears of ₹ 72.11 crore which are outstanding for five years or more may be made or else money due to Government will be lost.

It is recommended that the Government may take appropriate action to recover the arrears.

7.3 Impact of Audit Reports

During last five years, cases of non-levy/short-levy, non-realisation/short-realisation, underassessment/loss of revenue, application of incorrect rate of royalty, incorrect computation of royalty *etc* with revenue implication of ₹ 1422.70 crore in 71 paragraphs were pointed out through the Audit Reports. Of these, the Department/Government had accepted audit observations in 48 paragraphs involving ₹ 361.66 crore and has since recovered ₹ 31.27 crore in 29 paragraphs (December 2013) as shown in the following table:

(₹ in crore)

Year of Audit	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraph	Amount
2007-08	10	275.30	10	23.86	6	4.60
2008-09	27	259.67	19	22.46	16	18.82
2009-10	6	410.16	5	276.67	2	4.74
2010-11	13	158.00	4	1.24	3	0.67
2011-12	15	319.57	10	37.43	2	2.44
Total	71	1422.70	48	361.66	29	31.27

Amount of recovery is far less than the accepted amount. The Department stated that in some cases recovery had been stayed by the judicial authorities, while in others, demands were pending at various stages of recovery. The Government may initiate a review of all the cases accepted by it to recover the remaining amount of ₹ 330.39 crore.

7.4 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, that subordinate offices are maintaining various records, registers/account books properly and accurately and that adequate safeguards are being taken against non-collection/short collection or evasion of revenue.

Scrutiny of records of the Director, Mines and Geology (DMG), Udaipur disclosed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit the Departmental authorities were not aware of the areas of the weakness in the system which allowed evasion/leakage of revenue. The matter was pointed out in the Comptroller and Auditor General's Audit Report 2011-12. However, no action was taken by the Department.

7.5 Results of Audit

Test check of the records of the Department of Mines and Geology and the Department of Petroleum conducted during the year 2012-13 disclosed non-recovery/short recovery of revenue amounting to ₹ 1,071.58 crore in 4,716 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
1.	Unauthorised excavation	1,206	710.32
2.	Non/short recovery of dead rent and royalty	530	162.21
3.	Non-levy of penalty/interest	558	20.08
4.	Non-forfeiture of security	16	2.67
5.	Other irregularities	2,406	176.30
	Total	4,716	1,071.58

During the year 2012-13, the Departments accepted short realisation and other deficiencies of ₹ 126.75 crore in 2,803 cases, of which 498 cases involving ₹ 91.66 crore were pointed out during the year 2012-13 and the others in earlier years. The Departments recovered ₹ 11.28 crore in 1,597 cases, of which 75 cases involving ₹ 0.85 lakh pertained to the current year audit and the others pertained to earlier years.

A few illustrative audit observations involving ₹ 96.04 crore are mentioned in the succeeding paragraphs.

Department of Mines and Geology and Department of Petroleum

7.6 Audit observations

Test check of records of the Department of Mines and Geology and the Department of Petroleum disclosed several cases of non-observance of the provisions of Act/Rules, non-adherence to the Government orders/procedure and other irregularities. A few of these cases are mentioned in the succeeding paragraphs of this chapter. Such omissions are being pointed out in audit every year. However, not only the irregularities persist, but these also remain undetected till the next audit is conducted. There is a need for the Government to improve the internal control system in the Department.

7.7 Non-observance of the provisions of Act/Rules

The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988, Rajasthan Minor Minerals Concession (RMMC) Rules, 1986 and Marble Development and Conservation Rules (MDCR), 2002 provide for:

- (i) levy of royalty at the 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 (ME)/Assistant Mining Engineers (AME) and Departmental authorities did not observe the provisions of the Act/Rules in the cases mentioned in paragraphs 7.7.1 to 7.7.12. This resulted in non-realisation/short-realisation of royalty, non-realisation/short-realisation of cost of mineral and non-levy of interest.

7.7.1 Illegal subletting of lease

Rule 15(1) (b) of RMMC Rules, 1986 provides that the lessee shall not, without the previous consent of the competent authority, enter into or make any agreement, contract or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by or under which the lessee's operation or undertakings will or may be substantially controlled by any person or body of persons other than the lessee. Thus transfer of mining rights in any lease without prior permission is altogether prohibited.

Rule 48(5) of the Rules, further, provides that whenever any person, without a lawful authority, raises any mineral from any land and where mineral so raised has already been despatched or consumed, the concerned authorities may recover cost of the mineral along with royalty, the cost of mineral will be computed as ten times of the royalty payable at the prevalent rates.

During test check of the records of ME Sikar, it was noticed (July 2012) that six leases (ML No. 46/99, 47/99, 64/99, 608/07, 609/07, 610/07) of mineral masonry stone near village Raipur Chihala Tehsil Dantaramgarh were illegally sublet (June 2009) to three lessees without obtaining prior consent of competent authority. The ME cancelled/ rejected renewal request due to illegal subletting of three leases (ML No. 46/99, 47/99, 64/99) in October 2010. However, the ME did not raise demand for 23,945 MT mineral amounting to ₹ 31.13 lakh which was despatched from these lease areas without authority between June 2009 and October 2010. The ME also did not

initiate timely action for taking possession of remaining three leases (608/07, 609/07, 610/07) wherein the lease holders continued illegal excavation and despatched 1,01,734 MT masonry stone costing ₹ 2.10 crore during June 2009 to March 2012.

After this being pointed out (July 2012), ME stated (July 2012) that the demand of ₹ 84.38 lakh had been raised and further action on the remaining demand against defaulting lease holders who had carried out mining between June 2009 to March 2012 would be examined and communicated to audit.

The matter was brought to the notice of the Department and reported to the Government (August 2012). The Government replied (December 2013) that the action for recovery was being initiated, progress of which would be intimated.

7.7.2 Non-observance of provisions of mineral conservation

As per Rule 22 A (1) of the MC Rules, 1960 and Rule 9 of the MCD Rules, 1988, no person shall commence mining operations in any area except in accordance with a mining plan approved under section 5(2)(b) of the MMDR Act. Further, Rule 16 of the MCD Rules, 1988 provides that overburden and waste material obtained during mining operations shall not be mixed with non-salable or sub-grade ores/minerals and they shall be dumped and stacked separately.

Section 21(5) of the MMDR Act, 1957 envisages that the cost of mineral along with royalty shall be recovered in case of unlawful excavation/despatch of the mineral.

During test check of concession files and assessment/returns files of lessees of major minerals in ME, Rajsamand II, it was noticed (March 2013) that two lessees (M/s Usha Lime and Cement Private Ltd and M/s Apec Minerals Industry) excavated and despatched 4,045 MT of soapstone during 2010-11 without approval of mining schemes in respect of two leases (No. 6/99 and 15/03) sanctioned to them.

However, the ME, did not even raise the demand for unlawful production amounting to ₹ 22.08 lakh.

Further, one lessee (M/s Usha Lime and Cement Private Ltd.) did not separately stack 14,610 MT Dolomite and 4,566 MT low grade soapstone costing ₹ 69.72 lakh during 2005-10 as per the provisions of MCD Rules, 1988.

The matter was brought to the notice of the Department and reported to the Government in March 2013. The Government replied (December 2013) that mining of major mineral excavated from leased area could not be treated as illegal in view of Government of India's notification dated 26 July 2012. Regarding non-stacking of Dolomite, it stated that Dolomite was being stacked in the leased areas and verification in this regard would be carried out through a high level committee.

The reply is not acceptable as the notification issued by the Government of India dated 26 July 2012 has prospective effect and issue of *ravannas* for despatch of mineral excavated from the area without approval of mining scheme was irregular. The reply regarding verification of stacking of Dolomite is also not acceptable as the mining schemes submitted (March 2011) by the lessee itself mentioned disposal of Dolomite as well as low grade soap stone by way of dumping in the waste.

7.7.3 Execution of excess royalty collection contract (ERCC)/royalty collection contract (RCC)

Provisions of ERCC/RCC have been laid down in Rules 32 to 37 of the RMMC Rules, 1986.

Rule 33 (A) of the RMMC Rules, 1986 has provision for fixing of reserve price for inviting the tender for ERCC/RCC. Rule 35 (ix) provides that tender opening committee shall provisionally select the highest valid offer given by the tenderer. Further Rule 35 (xii) of the Rules *ibid* provides that competent authority shall take decision for sanction or rejection of the provisionally selected bid.

7.7.3.1 During test check of the records of ME, Karauli, it was noticed (February 2013) that an ERCC was given to M/s Shiva Corporation (India) Limited for sand stone from leases situated in District Karauli at a yearly contract amount of ₹ 3.90 crore which was revised to ₹ 10.61 crore (11 January 2011) for the period from 23 May 2009 to 31 March 2011. Though the contract was going to expire on 31 March 2011, the Department did not initiate timely tender proceedings for

award of contract. As a result, during the period from 1 April 2011 to 21 June 2011, the Department operated the check posts through its own staff and collected royalty of ₹ 1.45 crore. The contract was finalized (21 June 2011) and awarded (22 June 2011) to M/s Dharmender Singh for the period from 22 June 2011 to 31 March 2013 on yearly contract amount of ₹ 8.61 crore.

It was noticed that the Department during the period of 82 days (1 April 2011 to 21 June 2011) collected royalty which was less by ₹ 48.73 lakh in comparison to proportionate amount of the yearly contract of ₹ 8.61 crore sanctioned in favour of M/s Dharmender Singh. Thus, delay in tendering process resulted in less collection of ₹ 48.73 lakh.

The matter was brought to the notice of the Department and reported to the Government in March 2013. The Government stated (December 2013) that the ME office sent proposal on 13 January 2011 for fixing the reserve price at ₹ 10.80 crore. It was also stated that the DMG approved the reserve price of ₹ 10.80 crore on 28 January 2011 but due to amendment in the Rule 33A of RMMC Rules, 1986 the reserve price was to be increased at the rate of 10 *per cent*. The DMG accordingly revised the reserve price to ₹ 11.67 crore for which no bid was received due to excessive reserve price. The reserve price thereafter was revised five times and finally settled at ₹ 8.51 crore. The contract could not be made effective within time.

7.7.3.2 During test check of ERCC/RCC contract files in the office of the DMG, it was noticed (January 2013) that a tender was invited for RCC for collection of royalty and permit fee pertaining to mineral *Bajri*, to be despatched from the revenue areas of *tehsils* Girwa, Mawali, Vallabh Nagar and Salumbar of District Udaipur for a period of two years (2010-12). The tender opening committee selected the highest bid amounting to ₹ 2.52 crore per year against reserve price of ₹ 2.10 crore which was offered by a contractor. The bid was provisionally selected (17 February 2010). The contractor complied with all provisions of Rules 32 to 35. Accordingly the ME/SME recommended the name of the contractor for the award of the contract to the DMG. However, the DMG cancelled (9 March 2010) the proposal under the provisions of Rules 35 (xii) on the ground that the reserve price fixed by the ME/SME was not properly estimated which had resulted in fixation of low reserve price for the bid. A new offer of ₹ 2.70 crore was also received (25 February 2010) in Directorate from a new firm which had not participated in the tender. The Director instructed (8 March 2010) to invite a fresh tender after reconsidering the reserve price of ₹ 2.70 crore.

The contractor made an appeal in the Hon'ble High Court, Rajasthan Single Bench (SB) against the order of Directorate dated 9 March 2010. The SB of the Hon'ble High Court ordered (26 May 2011) the Director to award the RCC in favour of the contractor as his offer was valid. The Government appealed (22 December 2011) in Double Bench of High Court against the order (26 May 2011) of SB. The stay on retendering process was vacated (22 August 2012) by Hon'ble High Court as the contractor withdrew the case from the Court.

Scrutiny of contract related files disclosed that the reason accorded for low fixation of reserve price by the Director was not based on facts as the reserve price was fixed as per Directorate's letter dated 8 January 2010. The decision of the Director was, therefore, incorrect and had resulted in non-commencement of contract for more than two years. As a consequence, the Department collected royalty of ₹ 5.40 crore against the provisionally selected bid amount of ₹ 7.86 crore payable by the contractor during 2010-12 which resulted in loss of revenue of ₹ 2.46 crore.

The matter was brought to the notice of the Department and reported to the Government in February 2013. The Government stated (October 2013) that the Department decided to retender as another company offered ₹ 2.70 crore against the highest bid amount of ₹ 2.51 crore before sanctioning of the contract. Therefore, the contract was not sanctioned for maximisation of revenue and to avoid notional loss.

The reply is not acceptable as the decision to cancel the highest valid offer by the Directorate was not correct and legitimate. Because of this action there was a loss of revenue of ₹ 2.46 crore.

7.7.3.3 During test check of the records of ME, Kota, it was noticed (June 2012) that an ERCC for collection of excess royalty on masonry stone from the leases situated in *tehsils* Indergarh and Nainwa of District Bundi at yearly contract amount of ₹ 1.35 crore for the period from the date of execution of the contract to 31 March 2013 was recommended on 29 September 2011 in favour of a contractor after the earlier contract awarded to this same contractor for ₹ 1.96 crore was revoked (19 July 2011) due to non-deposit of monthly instalments in time. The proposal for sanction of the above contract, however, remained pending in the office of DMG till 23 May 2012.

It was noticed that due to indecision in regard to the contract, the Department operated its own check posts during 1 October 2011 to 31 March 2012 and collected royalty of ₹ 22.89 lakh. The contract was finally awarded in August 2012 at ₹ 1.35 crore to another contractor.

Had the Department taken decision on time, royalty of ₹ 52 lakh based on proportionate amount of the highest bid of ₹ 1.35 crore could have been recovered.

The Government in its reply (December 2013) stated that the contractor on an earlier occasion had defaulted causing loss of revenue and that it was difficult to ensure that he would not back out again. It added that the PAC Chairman had opined that the Department should blacklist defaulter contractors to avoid recurrence of such incidents and in view of these facts, the matter was referred to the Government which directed (11 May 2012) to cancel the tender. Further the Government agreed that collection of royalty through departmental check post is not as effective as collection of royalty through contractors.

The reply is not acceptable because the decision for rejection of bid was delayed substantially resulting in loss of revenue.

7.7.4 Irregular transfer of leases

Rule 11 (2) of the RMMC Rules, 1986 provides that no person shall acquire one or more mining leases covering total area of more than 10 sq km in respect of any mineral or group of associated minerals as prescribed in Schedule-III provided that the maximum number of mining leases to be granted for a particular mineral to a person within direct jurisdiction of any ME shall be restricted to two and the total number of leases in the entire State would not exceed three. Provided further that if the Government is of the opinion that it is in the interest of the mineral development, it may for reasons to be recorded permit grant of mining leases exceeding two or three in number as the case may be and/ or covering an area in excess of 10 sq km.

Rule 72 provides that no mining lease, quarry licence, short term permit (STP) or any other permit shall be granted otherwise than in accordance with the provisions of these Rules and if granted shall be deemed to be null and void.

Rule 48 provides that whenever any person without a lawful authority raises any mineral from any land and the mineral so raised has already been despatched or consumed, the authorities may recover cost of the mineral along with rent, royalty or the tax chargeable on land occupied or mineral excavated. The cost of the mineral will be computed as 10 times the royalty payable at the prevalent rates.

During test check of the records of ME, Jaipur, it was noticed (December 2012) that two leases (No. 47/90 and 275/02) of the minor mineral masonry stone were sanctioned in favour of a lessee. However, two other mining leases (No. 88/95 and 334/97) which were sanctioned to the lessee's father were transferred (7 May 2010) to the lessee by mutation (22 June 2009) on the direction of Additional Director (Mines), Jaipur. The transfer of two other leases (88/95 and 334/97) was to be treated as null and void in terms of provisions contained in Rule 11(2) and Rule 72 of RMMC Rules 1986. Therefore, 32,827 MT mineral costing ₹ 61.22 lakh excavated during July 2009 to March 2012 against lease no. 88/95 and 334/97 possessed by the lessee were unlawful.

The matter was brought to the notice of the Department and reported to the Government (January 2013). The Government replied (October 2013) that restriction of two lease was not applicable in case of transfer of leases in favour of successor.

The reply is not acceptable because sanctioning of more than two leases under the direct control of any ME required specific sanction of the Government. Further, in a similar case reported in the Audit Report 2008-09, the PAC in its Report 254 had directed (12 August 2013) the Department to seek legal opinion. The legal opinion on this matter had not been communicated (February 2014).

7.7.5 Excavation and despatch of mineral marble without lawful authority

The State Government vide notification dated 13 October 2008 prescribed the procedure for conversion of *Bapi pattas* into quarry licences. The *Bapi patta* holders had to apply for regularisation of their *pattas* in prescribed proforma within 30 days from the date of issue of notification. In case the *patta* holder failed to apply or his application was rejected by competent officer, the possession of the area of the *patta* was to be taken over by the Department besides taking action as per provisions of Rule 48 of RMMC Rules, 1986 treating mining activities illegal under Rule 64.

Rule 64 of RMMC Rules, 1986 provides that the Government shall not recognise *Bapi* or proprietary right in any land wherein such right is claimed by any person over any mineral bearing land, quarry of mines, unless declared so by a court of competent jurisdiction.

Rule 48 provides that whenever any person without a lawful authority raises any mineral from any land and where mineral so raised has already been despatched or consumed, the authorities may recover cost of the mineral along with rent, royalty or the tax chargeable on land occupied or mineral excavated. The cost of the mineral will be computed as 10 times the royalty payable at the prevalent rates.

During test check of the records of ME, Makrana, it was noticed (October 2012) that 49 *Bapi patta*¹ holders excavated and despatched 66,307.78 MT marble valuing ₹ 10.87 crore during the period 2011-12 though they had not applied for regularisation of their *pattas* within the prescribed period as per provisions of the notification. The ME did not take possession of areas of *pattas* possessed by these *Bapi patta* holders. As a result, they continued mining operations unlawfully.

The matter was brought to the notice of the Department and reported to the Government (November 2012). The Government replied (January 2014) that action for regularisation of *Bapi pattas* was under consideration and applications for regularisation of *Bapi pattas* had been received.

It was also stated that the royalty of the mineral excavated from the *Bapi patta* areas was recovered by the Department. The fact however remains that the mineral was excavated unlawfully and cost of the mineral should have also been recovered from the occupier in addition to the royalty under RMMC Rules.

¹ Parental mining rights on land.

7.7.6 Non-raising/short-raising of demand on granite

Rule 48(1) and (5) of the RMMC Rules, 1986 provides that no person shall undertake any mining operations except under permission granted under these Rules. Whenever any person, without lawful authority, raises any mineral and the mineral so raised has already been consumed, the AME/ME concerned may recover the cost of mineral along with royalty at the prevalent rates. The cost of mineral will be computed as 10 times the royalty.

During test check of the records of ME, Sirohi, it was noticed (October 2012) that in two cases demand for unauthorised excavation and despatch of mineral granite was raised short as cost of mineral equivalent to 10 times of royalty was considered for recovery but the royalty amount of ₹ 47.76 lakh was

excluded in demand order and in one case the demand of ₹ 94.77 lakh was pending for approval. This resulted in short raising and non-raising of demand of ₹ 1.43 crore.

The matter was brought to the notice of the Department and reported to the Government (November 2012). The Government stated (December 2013) that the cost of mineral including rent, royalty or tax equivalent to 10 times of royalty was recoverable and so the raised demand was correct. The reply is not acceptable because as per rule, the cost of mineral is to be recovered along with royalty.

7.7.7 Non-levy of royalty for illegal storage of major mineral

As per Rules 3 and 11 of the Rajasthan Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2007, no person shall carry on the business of buying, selling, storing, distributing or processing of mineral or mineral ores directly or use minerals and/or its ingredient as a raw material without being registered as a dealer under these Rules. Whoever, contravenes the provision of these Rules shall be punishable under the provisions of Section 21 of MMDR Act, 1957.

As per Section 21(5) of Act, where the mineral is excavated/despached unlawfully, the cost of the mineral along with royalty shall be recovered from the defaulter.

During test check of the records of ME, Jodhpur, it was noticed (July 2012) that the ME had found illegal storage of the mineral Jespar (6 March 2011) by two firms on inspection. The ME issued show cause notices to both the firms for production of records. Based on scrutiny of records, the ME forwarded (12 September 2011) the cases to SME, Jodhpur for approval of demand of ₹ 1.02 crore as the cost of mineral Jespar on the basis of the capacity and electric consumption of the crusher. The demands were approved by SME on 18 October 2011. On scrutiny of the demand notices, it was found that the ME had not included royalty at the rate of 10 per cent of the cost which worked out to ₹ 10.21 lakh.

The matter was brought to notice of the Department and reported to the Government (between August 2012 and August 2013). The Government stated (December 2013) that the demands of recoverable amount were on higher side. The reply is not acceptable because as per the MMDR Act, the cost of mineral is to be recovered along with royalty.

7.7.8 Non-levy of interest on delayed payment of royalty

Section 9 of the MMDR Act, 1957 provides that the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rate for time being specified in the second schedule of the MMDR Act in respect of that mineral.

Further, as per Rule 64 of MC Rules, 1960, simple interest at the annual rate of 24 *per cent* on royalty due is chargeable from the sixtieth day of the expiry of the due date fixed for payment.

7.7.8.1 During test check of the records of ME, Ramganjmandi, it was noticed (June 2012) that a mining lease (No. 2/1976) for the mineral limestone was sanctioned in favour of M/s Manglam Cement. Scrutiny of assessment orders disclosed that the lessee had deposited (11 October 2011) royalty of ₹ 1.60 crore under protest against the reassessment order for the period from 21 February 1995 to 21 February 2002. It was

noticed that the department calculated the interest of ₹ 2.81 crore on the delayed period from the date of assessment order (16 June 2004) while the interest was to be calculated from the sixtieth day after expiry of the assessment year. Thus, calculating interest from the date of assessment order, resulted in short raising of demand of ₹ 1.71 crore.

The matter was brought to notice of the Department and reported to the Government between July 2012 and August 2013. The Government stated (November 2013) that the Department had already raised differential demand of royalty of ₹ 1.60 crore against which the lessee filed a writ (SB civil writ no. 4597/2004) in the Rajasthan High Court. The fact remains that the Department had calculated interest from the date of the reassessment order whereas interest was to be calculated after sixtieth day of the completion of the relevant year.

Rule 33 D (2) of the RMMC Rules, 1986, provides that the monthly/quarterly instalment of annual contract amount shall be paid in advance before the due date. In case the monthly/quarterly instalment is not deposited by the due date then interest shall be payable at the rate of 15 per cent per annum from the due date.

Further, Rule 62 provides that Government may recover any dues in respect of dead rent, royalty, quarry licence fee, royalty collection contract amount, cost of mineral, penalties and any other dues under these rules together with interest as arrears of land revenue under the law in force relating to such recovery.

7.7.8.2 During test check of the records of ME, Sojat City, it was noticed (September 2012) that an RCC for collection of the royalty on mineral *bajri* in *Tehsil* Desuri was sanctioned for the period from 1 April 2010 to 31 March 2012. Scrutiny of records disclosed that the contractor had deposited the monthly instalments with a delay ranging from 14 days to 300 days for the period from 1 April 2010 to November 2011 and had not deposited full monthly instalments for the period from December 2011 to March 2012. The ME, however, neither raised

demand of unpaid principal of ₹ 10.90 lakh and interest of ₹ 2.98 lakh nor initiated any action for revocation of the contract.

The matter was brought to notice of the Department and reported to the Government between November 2012 and July 2013. The Government stated (November 2013) that demands for the revised contract amount of ₹ 15.25 lakh and interest of ₹ 2.98 lakh had been raised, out of which ₹ 8.99 lakh had been recovered.

Rule 61 of the RMMC Rules, 1986 provides that interest at the rate of 15 per cent shall be charged on all dues relating to dead rent, royalty, quarry licence fee and RCC/ERCC amounts from the due date.

7.7.8.3 During test check of the Demand Register of bricks earth permits of ME, Jaipur, it was noticed (December 2012) that demand of interest of ₹ 9.36 lakh on delayed payments ranging between 1 and 546 days, was

not raised against 64 brick earth permit holders.

The matter was brought to the notice of the Department and reported to the Government in October 2013. The Government replied (January 2014) that demands of interest had been raised in all the 64 cases and ₹ 8.26 lakh had been recovered in 57 cases. It was also stated that necessary action was being taken to recover the amount in the remaining cases.

7.7.9 Irregular sanction of leases in forest area

Rules 4(6) of the RMMC Rules, 1986 provides that no mining lease shall be granted or renewed in the forest area without clearance from the Central Government in accordance with Forest (Conservation) Act, 1980 and the Rules made thereunder.

Rule 72 provides that no mining lease, quarry licence, short term permit or any other permit shall be granted otherwise than in accordance with the provisions of these Rules and if granted, shall be deemed to be null and void.

Rule 48(1) and (5) provides that no person shall undertake any mining operations 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 the cost of mineral along with royalty.

During test check of records of ME, Karauli, it was noticed that nine leases of mineral masonry stone were cancelled on the directions of Rajasthan High Court, Jaipur as the lease areas were falling under forest area. As the allotment of mining lease in forest area was restricted, allotment of mining leases and excavations therefrom was illegal, requiring recovery of cost of mineral and royalty. However, the ME did not raise the demand. The cost of the mineral masonry stone excavated and despatched from these leases worked out to ₹ 46.36 lakh.

The matter was brought to notice of the Department and reported to the Government between March and July

2013. The Government stated (November 2013) that (i) the leases were sanctioned after obtaining clearance from the Land Revenue Department and the Forest Department and that the area of leases was part of revenue land (ii) the leases were sanctioned in forest area due to incorrect facts submitted by the Forest Department and thus the Forest Department was the defaulter not the Mining Department (iii) there was contravention of Rule 72 of RMMCR 1986 and not contravention of Rule 48(1) and 48(5), hence excavation from the areas of sanctioned leases could not be treated as illegal.

The reply is not acceptable because grant of any mining lease or quarry licence in contravention of Rules was to be treated as null and void. The Hon'ble High Court Jaipur Bench declared the sanction of leases null and void and excavation of mineral from leases unauthorised. Thus, raising or consumption of the mineral, from such land attracted penal provisions. Thus, the Government lost revenue of ₹ 46.36 lakh.

7.7.10 Unauthorised excavation and use of minerals by public works contractors

As per Government circular dated 8 October 2008, the public works contractor shall have to obtain STP, for the minerals to be used in the works, from the concerned ME/AME before starting the work. In case of use of mineral in work without STP, the concerned works department is responsible for depositing the cost of minerals used without STP.

The contractor has to submit records for assessment of royalty of minerals authorised in STP and actually used in the works within 15 days of completion of STP period.

As per Rule 63 of the RMMC Rules, 1986, the cost of excess quantity of the minerals illegally excavated and used shall be recovered, if such quantity exceeds 25 per cent of that permitted in STP. The cost of minerals shall be 10 times the prevalent royalty as envisaged in Rule 48.

7.7.10.1 During cross verification of STPs issued to public works contractors by the ME/AME and the work orders' 'G' schedules² maintained in 11 ME/AME offices, it was noticed (July 2012 to March 2013) that 106 works contractors excavated/ consumed minerals like masonry stone, *bajri*, gravel, ordinary soil *etc.* either without obtaining STP or more than 25 per cent of the quantity permitted in the STP. The cost of minerals illegally excavated, worked out to ₹ 6.21 crore, which was not recovered from the concerned contractors.

The matter was brought to the notice of the Department and reported to the Government (March 2013). The Government stated (December 2013) that the consumption statements with STP were called for from the concerned Departments, on the basis of which actual quantity of mineral consumption and royalty payable thereon would be ascertained.

² Abstract of cost

7.7.10.2 During test check of the records of four ME offices, it was noticed (June 2012 to February 2013) that the public works contractors excavated and used minerals without obtaining STP from the MEs concerned. The royalty on such minerals was to be deducted by the concerned Works Department and deposited into the appropriate head of account. As per provisions of Rule 63 and Government's circular (08 October 2008), in cases where contractors excavated and used minerals without STP, the concerned Department was responsible to deduct the cost of the mineral in place of single royalty. Further, the MEs were supposed to take appropriate action for recovery of the amount which was not done. This resulted in short recovery of the cost of mineral amounting to ₹ 49.01 lakh as under:

(₹ in lakh)

Name of the Office	Recovered single royalty amount	Cost of mineral (10 times royalty)	Recoverable amount
ME, Alwar	1.18	11.83	10.65
ME, Chittorgarh	1.82	18.22	16.40
ME, Makrana	1.84	18.40	16.56
ME, Ramganjmandi	0.60	6.00	5.40
Total	5.44	54.45	49.01

The matter was brought to the notice of the Department and reported to the Government in March 2013. The Government replied (December 2013) that letters have been issued to Regional Managers, Rajasthan Investment and Industrial Corporation (RIICO), Alwar, Bhiwadi-II (Alwar) and Urban Improvement Trust, Chittorgarh to deposit the amount, failing which action would be initiated under the Rajasthan Land Revenue Act. It was also stated that ₹ 16,704 had been recovered from RIICO Bhiwadi- I (Alwar).

The reply is not acceptable as in no case the cost of mineral as per mineral consumption statement was assessed.

7.7.11 Recovery of single royalty instead of cost on illegally despatched mineral

Rule 18(9) of the RMMC Rules, 1986 provides that lessee or any other person shall not remove or despatch or utilise the minerals from the mines and quarries without *rawannas*. In case of despatch of mineral without lawful authority, Rule 48(5) provides for recovery of the cost of minerals worked out as 10 times the royalty payable at the prevalent rates along with royalty. The deed executed for excess royalty collection contract in Form 10 under the provisions of Rule 37 (2) of the said Rules provides that contractor shall not collect the royalty from vehicles carrying minerals without the *Rawanna* in Form-12 issued under departmental stamp and hand over such vehicles to the Department.

During test check of the records of ME, Bundi-II, it was noticed that leases under the jurisdiction of ME, Bundi-I and II were sanctioned for mineral

sandstone and *rawannas* were issued for despatch of mineral sandstone. The ERCC contract to collect excess royalty from these leases was awarded to M/s Parth Network Private Ltd, Udaipur (contractor) for the period from 8 April 2010 to 31 March 2012 at a yearly contract amount of ₹ 9.66 crore. The Department, however, did not issue any *rawanna* to the lessees for the mineral cobbles and masonry stone collected from the waste of the mines. It was noticed that the contractor collected the royalty amounting to ₹ 6.22 crore from the vehicles carrying cobbles (9,21,120 MT) and masonry stone (18,260 MT) which were not supported by *rawannas* despite the fact that such vehicles were to be handed over to the Department for recovery of cost of mineral.

It was further noticed that after the revocation of the contract, the Departmental check posts also allowed despatch of cobbles (1,657 MT) and masonry stone (2,04,537 MT) from the vehicles which were not carrying *rawannas* during the period 14 September 2011 to 31 March 2012 and collected single royalty amounting to ₹ 38.86 lakh.

As per Rule 48 (2) of the RMMC Rules 1986, removal or despatch of any mineral from the lease without *rawannas* is illegal. Hence, cost of mineral amounting to ₹ 62.20 crore was recoverable from the contractor. Further, there was loss of ₹ 3.88 crore due to non observation of the above provision by the Department when their own check posts were operative.

The matter was brought to the notice of the Department and reported to the Government in December 2012. The Government stated (November 2013) that the ERCC included the royalty on masonry stone and cobbles and therefore separate *rawannas* were not issued. Further the departmental check posts collected permit fees as was done previously for collection of royalty on the masonry stone and cobbles. However to remove the technical flaw, Rule 63A has been inserted in RMMC Rules, 1986 with effect from 14 October 2011, whereby separate STP would be issued for mineral cobbles and masonry stone.

The fact remains that though separate clause vide Rule 63A has been inserted in RMMC Rules, 1986, its compliance was not ensured by the Department.

7.7.12 Illegal excavation and despatch of mineral masonry stone due to inaction of the Department

Rule 48(5) of the RMMC Rules, 1986, provides that whenever any person, without a lawful authority, raises any mineral from any land and where mineral so raised has already been despatched or consumed, the concerned authorities may recover cost of the mineral along with royalty. The cost of mineral was to be computed as 10 times the royalty payable at the prevalent rates.

During test check of the reports of site inspection conducted by SME and ME (Vigilance), Jaipur, it was noticed (March and July 2012) that a mining lease (No. 46/99) was operational for the mineral masonry stone near village Raipur, *Tehsil* Dantaramgarh under the jurisdiction of ME, Sikar. Scrutiny (July 2011) of

records disclosed that 52,226 MT of masonry stone was illegally excavated beyond the lease area and despatched by the lessee. However, the ME did not raise the cost of mineral amounting to ₹ 1.15 crore against the lessee.

The matter was brought to the notice of the Department and reported to the Government (June 2013). The Government replied (December 2013) that progress of recovery would be intimated in due course.

**JAIPUR,
The**

**(S. ALOK)
Accountant General
(Economic & Revenue Sector Audit), Rajasthan**

Countersigned

**NEW DELHI,
The**

**(SHASHI KANT SHARMA)
Comptroller and Auditor General of India**