

***CHAPTER V***  
***NON-TAX RECEIPTS***  
***MINES AND MINERALS***

## Executive Summary

Internal audit	No internal audit was conducted for the past five years in respect of Geology and Mining Department. This resultantly had its impact in terms of weak internal control in the Department
Results of audit conducted in 2012-13	<p>During 2012-13, Audit test checked the records of 22 units and found non/short-levy of dead rent, seigniorage fee, brick mineral annual fee, non-realisation of interest and other observations amounting to ₹ 41.46 crore in 43 cases.</p> <p>The Department accepted and recovered under assessments and other deficiencies amounting to ₹ 49.14 lakh in 26 cases out of which ₹ 8.16 lakh involved in five cases were pointed out during the year and the rest in earlier years.</p>
What is highlighted in this Chapter	This Chapter features a performance audit of Mining activities in the State involving ₹ 15.16 crore. The Performance Audit revealed that applications for grant of fresh/renewal of leases were pending for very long periods, resulting in blocking of systematic mineral development. The Government has not effectively followed the fixation of prices by IBM for the purpose of levy of royalty which has resulted in continued loss of royalty income to the Government. The Performance Audit revealed that there was no effective system of internal checks.
Conclusion	The Department needs to improve the internal control system including strengthening of internal audit so that the weaknesses in the system are addressed and omission of the nature detected by audit are avoided in future. It also needs to initiate action to recover the non/short levies pointed out by audit.

## CHAPTER V

### NON-TAX RECEIPTS

### MINES AND MINERALS

#### 5.1 Tax administration

Extraction of major minerals is governed by the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and the Mineral Concession Rules, 1960 (MC Rules) made thereunder. Under the Act, the State Government is empowered to make rules to regulate the grant of mining lease in respect of minor minerals. Accordingly, the Tamil Nadu Minor Mineral Concession Rules, 1959 (TNMMC Rules) were framed. Prospecting or mining operations can be undertaken only with a licence or mining lease granted under the TNMMC Rules. The holder of the mining lease shall pay royalty/seigniorage fee at the rates prescribed, as the case may be, in respect of minerals removed by him from the leased area. Wherever royalty/seigniorage fee in a year is less than dead rent, the dead rent is payable in lieu of royalty/seigniorage fee.

The overall control of the Department vests with the Principal Secretary to the Government, Industries Department. The Commissioner of Geology and Mining (CGM) is the head of the Department. He is assisted by the District Collectors (DCs) who are assisted by Deputy Directors (DD) and Assistant Directors (AD) in performing their duties. There are 31 DCs, a gem collection centre at Karur and a geo-technical cell at Coonoor. Each office is headed by a DD/AD. They are assisted by the Tahsildars/Deputy Tahsildars in performance of their statutory functions.

#### 5.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 alongwith the figures for the preceding four years are mentioned below:

(₹ in crore)					
Year	Opening balance	Addition	Total	Amount collected during the year	Closing balance
2008-09	2,182.96	13.09	2,196.05	0.55	2,195.50
2009-10	2,195.50	20.19	2,215.69	0.73	2,214.96
2010-11	2,214.96	47.58	2,262.54	0.76	2,261.78
2011-12	2,261.78	28.56	2,290.34	7.48	2,282.86
2012-13	2,282.86	143.01	2,425.87	3.58	2,422.29

As per the details furnished by the Department, the arrears as on 31 March 2013 includes ₹ 2,195.50 crore outstanding for more than five years. Demands amounting to ₹ 107.36 crore were covered under the Revenue Recovery Act. Demands amounting to ₹ 1,747.44 crore were stayed by the Government/High Court and other judicial/appellate forums and an amount of ₹ 9.00 crore was held up due to rectification/review application. ₹ 0.55 lakh could not be recovered on account of assessee's becoming

insolvent. A sum of ₹ 0.31 lakh was likely to be written off/waived. A sum of ₹ 558.48 crore was under various stages of recovery.

The details indicate that substantial amounts were covered under the Revenue Recovery Act and on account of stays granted by Government.

**It is recommended that the Government may consider fixing targets for collection of old arrears in a time bound manner and closely monitor the performance of the departmental officers *vis-à-vis* the set targets.**

### **5.3 Impact of Audit Reports**

#### **5.3.1 Revenue impact**

During the last five years, Audit pointed out non/short-levy of dead rent, seigniorage fee, brick mineral annual fee and other observations with revenue implication of ₹ 111.66 crore in 5 paragraphs. Of these, the Department/Government had accepted audit observations involving ₹ 110.46 crore and had since recovered ₹ 1.26 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Accepted money value	Amount recovered
	Number	Money value		
2007-08	1	1.04	1.04	0.78
2008-09	1	109.85	108.65	----
2009-10	----	----	----	----
2010-11	3	0.77	0.77	0.48
2011-12	----	----	----	----
<b>Total</b>	<b>5</b>	<b>111.66</b>	<b>110.46</b>	<b>1.26</b>

**The Government may institute a mechanism to monitor the position of recoveries in the cases pointed out in the Audit Reports and take necessary steps for early collection.**

#### 5.4 Results of audit

Audit test checked the records of the 22 departmental offices during the period from April 2012 to March 2013 and found non/short-levy of dead rent, seigniorage fee, brick mineral annual fee and other observations amounting to ₹ 23.25 crore in 43 cases, which broadly fall under the following categories.

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	Performance Audit of “Mining activities in the State”	1	15.16
2	Non/short levy of dead rent, seigniorage fees, royalty	22	0.80
3	Non-collection of brick mineral annual fee	4	0.18
4	Non-collection of interest/penalty	2	0.04
5	Others	14	7.07
<b>Total</b>		<b>43</b>	<b>23.25</b>

During the course of the year 2012-13, the Department accepted and recovered under assessments and other deficiencies amounting to ₹ 49.14 lakh in 26 cases, out of which, ₹ 8.16 lakh involved in five cases were pointed out during the year and the rest in earlier years.

## **5.5 Performance Audit of Mining activities in the State**

### **Highlights**

**There existed delay in disposing applications for grant of fresh leases/renewal of existing leases.**

**(Paragraph 5.5.8.1)**

**There was short realisation of royalty of ₹ 1.10 crore in respect of removal of four minerals during the years from 2008-09 to 2012-13 by 64 lessees as the system of levy of royalty based on Indian Bureau of Mines declared values was not adopted.**

**[Paragraph 5.5.10.1(i)]**

**Non-monitoring of the sale price declared by lessees of beach sand minerals to the Indian Bureau of Mines led to less realisation of royalty in respect of mineral 'Garnet'.**

**(Paragraph 5.5.10.2)**

**Non-monitoring of submission of returns and inadequate inspections of mines rendered the internal control system weak.**

**(Paragraph 5.5.12)**

### **5.5.1 Introduction**

Minerals are finite and non-renewable natural resources. Mineral exploration and development is closely linked with the development of country's economy and the people. Therefore, the management of this precious resource and its optimal and economical use is a matter of national importance and is to be closely integrated with the overall strategy of development.

Minerals are classified into two categories, viz., Major minerals and Minor minerals. Major minerals are further classified as hydrocarbons or energy minerals (such as coal, lignite *etc.*), atomic minerals, metallic and non-metallic minerals. Minor minerals include building stone, ordinary clay, ordinary sand and any other mineral as notified by the Central Government.

The responsibility for the management of mineral resources is shared between the Central and State Governments. For conservation, systematic development and regulation of mining activities in India, the Government of India enacted the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), the Mineral Concession Rules, 1960 (MC Rules), the Mineral Conservation and Development Rules, 1988 (MCDR) and the Granite Conservation and Development Rules, 1999 (GCDR). The mining activities in Tamil Nadu are governed under all the above Acts as well as under the Tamil Nadu Minor Mineral Concession Rules, 1959 (TNMMC Rules) framed

by the State Government in exercise of the powers derived under Section 15 of the MMDR Act. The levy and collection of royalty, seigniorage fee, dead rent, surface rent on minerals are regulated under the above cited Acts/Rules. The conservation, development and extraction of oil and natural gas are regulated under the Oilfield (Regulation and Development) Act, 1948 (ORD Act) and the Petroleum and Natural Gas Rules, 1959 (PNG Rules).

### **5.5.2 Organisational set up**

At the Government level, the Department is under the administrative control of the Principal Secretary, Industries Department. The Geology and Mining Department, which was formed in the year 1983, is headed by the Commissioner of Geology and Mining and is assisted by Joint Directors, Deputy Directors and Assistant Directors in headquarters.

For effective administration, the Department has established District Offices. The District Offices function under the administrative control of the respective District Collectors and are under the overall control of the Commissioner of Geology and Mining. There are 31 District Offices and each office is headed by a Deputy or Assistant Director and assisted by one Geologist on the technical side. There are Tahsildars/Deputy Tahsildars and Revenue Inspectors in the District Offices to assist the Deputy/Assistant Director on the administrative side.

### **5.5.3 Audit objectives**

Performance Audit was conducted to ascertain whether:

- a system was in place and observed for proper levy and collection of royalty, dead rent and surface rent including penalty;
- the provisions of the Acts/Rules and the departmental instructions were properly observed;
- adequate internal control measures including internal audit were in place to monitor assessment and collection and to check leakage of revenue.

### **5.5.4 Audit criteria**

The audit criteria for Performance Audit have been derived from the following Central and State Legislations:

1. The Mines and Minerals (Development and Regulation) Act, 1957
2. The Mineral Concession Rules, 1960
3. The Mineral Conservation and Development Rules, 1988
4. The Granite Conservation and Development Rules, 1999
5. The Tamil Nadu Minor Mineral Concession Rules, 1959
6. The Oilfields Regulation Act, 1948
7. The Petroleum and Natural Gas Rules, 1959
8. National Mineral Policy, 2008

9. Relevant Notifications/Circulars/Orders issued by the Central/State Governments and the Directorate/Commissioner of Geology and Mining.

### **5.5.5 Audit methodology and scope of audit**

Performance Audit was conducted during April to July 2013 covering the period from 2008-09 to 2012-13. Audit selected fifteen<sup>41</sup> out of 31 district offices under the Department on the basis of simple random sampling without replacement method to examine the mechanism for levy and collection of mining receipts. Further, the records at the Commissioner's Office and the Industries Department were scrutinised and the details obtained from the Regional Controller of Mines were correlated with the departmental records.

Entry Conference was held with the Principal Secretary to the Government, Industries Department in April 2013, during which the objectives, scope and methodology of audit were discussed. The draft Performance Audit report was forwarded to the Government in September 2013. Performance Audit was discussed with the Principal Secretary of the Industries Department in the Exit Conference held in October 2013. The views expressed by the Government during the Exit Conference and replies received at other points of time have been appropriately incorporated in the relevant paragraphs of this Report.

### **5.5.6 Acknowledgment**

Indian Audit and Accounts Department acknowledges the co-operation of the Geology and Mining Department and the Regional Controller of Mines, Chennai in providing necessary information and records to Audit.

### **5.5.7 Revenue contribution of mining sector**

Receipts from mines and minerals mainly consist of royalty/seigniorage fee which is levied either on specific rate or on *ad valorem* basis on the type and quantity of mineral removed or consumed from the mines according to the Schedule to the relevant Act. Dead rent is levied on the area leased out for mining activity when no mining is done during a year or when the royalty/seigniorage fee payable is less than the dead rent prescribed in the Schedules to the Act/Rules. Other receipts from mining are application fee for various permits and licences, lease amount, penalties and interest for delayed/belated payments of dues *etc.* Rates of royalty and dead rent in respect of major/minor minerals are prescribed by the Central /State Government respectively. However, these are collected and utilised by the State Government.

The budget estimates of mining receipts, actual receipts from mining, total non-tax revenue raised by the State Government and the percentage of

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<sup>41</sup> Cuddalore, Dharmapuri, Dindigul, Kanyakumari, Karur, Krishnagiri, Nagapattinam, Namakkal, Madurai, Salem, Trichy, Tirunelveli, Tiruppur, Tiruvarur and Villupuram



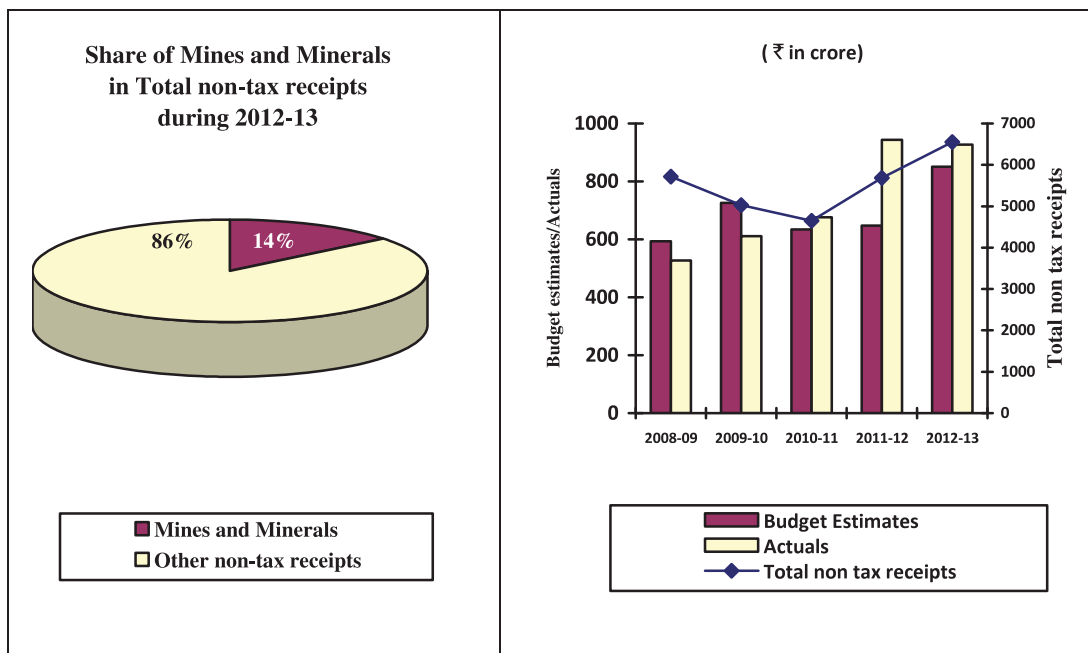
contribution by the mining sector towards non-tax revenue is given in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall(-)	Percentage of variation	Total non-tax receipts of the State	Percentage of the mining receipts to total non-tax receipts
2008-09	593.40	527.36	(-) 66.04	(-) 11.13	5,712.33	9.23
2009-10	725.06	610.89	(-) 114.17	(-) 15.75	5,027.05	12.15
2010-11	634.72	675.87	(+) 41.15	(+) 6.48	4,651.45	14.53
2011-12	647.44	943.83	(+) 296.39	(+) 45.78	5,683.57	16.61
2012-13	850.97	927.19	(+) 76.22	(+) 8.96	6,554.26	14.15

**Source : Finance Accounts of Government of Tamil Nadu**

A bar diagram depicting budget estimates, actual receipts of Mines and Minerals and total non-tax receipts of the State and a pie chart depicting the position of mines and minerals receipts in the total non-tax receipts are given below:



During the year 2011-12, the increase in actual receipts was due to increase in receipts under mineral concession fees, rents and royalties and receipts from sand quarry operations.

### 5.5.8 System of grant of lease

The grant of mineral concessions (leases) for major minerals is governed by the MMDR Act and the MC Rules. The Commissioner of Geology and Mining (CGM) is empowered to grant mining lease for major minerals in patta lands. The Government is the competent authority to grant mineral concessions in respect of Government lands. The grant of mineral concession

for minor minerals is governed by the TNMMC Rules. Rule 8-A of TNMMC Rules provides for grant of quarry leases to private persons in Government lands on 'tender-cum-auction' system. The District Collectors (DCs) of the concerned districts is the lease granting authority for minor minerals except granite. The grant of mineral concession for granite is governed by the Granite Conservation and Development Rules, 1999 (GCDR) and the Tamil Nadu Minor Mineral Concession Rules, 1959 (TNMMC Rules). In respect of granite, the Government is the competent authority to grant quarry lease.

In respect of major minerals, any Indian National or a Company as defined in Companies Act, 1956 can apply for mining lease over an area which has earlier been prospected for existence of minerals and the mineral contents have been established. However, if the Government is satisfied that the existence of mineral has been established, it can sanction lease without prospecting such area. The mining lease application should be accompanied by non-refundable application fees and deposit, a certificate of payment of mining dues in case the applicant was already a holder of mining lease, an affidavit stating that the applicant has no income tax dues, an affidavit that the applicant has obtained surface rights over the area and other necessary approvals from competent authorities, wherever necessary. Grant of mining lease is on the principle that the application received earlier shall have preferential right over the application received subsequently. In respect of more than one applicant, the experience, investment prospects and the end use of the mineral are the deciding factors.

Audit noticed various deficiencies in the system of grant of lease which are mentioned in the succeeding paragraphs.

#### **5.5.8.1 Delay in disposal of lease applications**

- *Major Minerals*

The MC Rules prescribe the procedure for grant of lease for major minerals. As per Rule 63A, the Government is required to dispose of the application for grant of mining lease within 12 months from the date of its receipt. Rule 24A prescribes that the renewal application for lease is required to be submitted 12 months before the completion of the current lease and if the application is not disposed of before the expiry of the lease, then the lease is deemed to have been extended, until the Government passes orders.

Audit scrutiny of the information regarding pendency of lease applications as at the end of March 2013 furnished by the Office of the Commissioner of Geology and Mining revealed that 114 applications for grant of fresh lease involving total area of 1,904 hectares were

pending for more than one year. The analysis further revealed that 46 applications for renewal of lease covering a total area of 1,078 hectares were

pending with the Department/Government for periods ranging from one and 20 years as detailed below:

Period of delay	Fresh lease		Renewal of lease	
	Number of pending applications	Area involved (in Hectares)	Number of pending applications	Area involved (in Hectares)
More than 15 years	16	605.40.0	17	81.90.06
Between 10 and 15 years	32	225.26.9	14	381.81.80
Between 5 and 10 years	27	623.60.7	10	521.77.90
Between one and 5 years	39	449.36.8	5	92.93.60
<b>Total</b>	<b>114</b>	<b>1,903.64.4</b>	<b>46</b>	<b>1,078.43.36</b>

Test check by Audit of 31 cases in the office of the CGM revealed that the cases were pending for the following reasons:

- in 12 cases, details like sketch of the area, jurisdictional location of the land viz., panchayat or revenue, no objection certificate from existing industries, etc., sought from the applicants between August 2003 and June 2011 were yet to be furnished.
- in 10 cases action is yet to be taken on the applications forwarded by the District Office to the CGM (between 2008 and 2013).
- in seven cases though proposal for rejection of applications was forwarded by the CGM to the Government (between February 2006 and February 2012), action is yet to be taken by the Government.
- in respect of two cases, the lease has been sanctioned (April and May 2013).

Though the applications for renewal are pending, the lessees continue mining operations under the provisions of deemed renewal without execution and registration of formal lease deed. In the absence of lease deed, contractual obligations like adherence to mining plan, environmental clearances, etc. could not be enforced on the lessees. Non granting of fresh lease resulted in blocking of systematic mineral development in the State. Further dead rent/royalty which could have accrued had the lease been granted and stamp duty on the registration of lease deed has not been realised.

During Exit Conference, the Government stated that the pendency was due to furnishing of incomplete details by the applicants and the delay in getting clearances from various departments/agencies. The Government may institute a mechanism to ensure disposal of lease applications within the prescribed time period.

### 5.5.8.2 Granite leases

The State Government introduced Rule 39 with effect from 8 March 1993 to grant or renew a lease or permission to quarry any mineral on terms and conditions different from those laid down in the Rules in the interest of mineral development and in the public interest, it is necessary so to do. This Rule was deleted in June 1996.

Audit noticed in four<sup>42</sup> districts that 55 lessees who were granted granite leases between the period 1993 and 1996 for 10 years under Rule 39, applied for renewal before the expiry of the original lease period. The applications were rejected for reason of non existence of Rule 39 at the time of submission of renewal application. The lessees filed an appeal against the rejection of renewal and the

Madras High Court permitted the lessees to continue quarrying and observed (September 2007) that the State Government shall fix the revised rental/charges in accordance with law and after fixing the rental/charges, the Government shall consider the application for renewal within a period of eight weeks thereafter.

However, Audit observed that even after a period of six years since the Court gave its decision, the revised rental charges have not yet been fixed and the lessees continue quarrying operations under the orders of the Court. This has led to (i) non realisation of rental charges; (ii) mining operations being undertaken without a mining plan and (iii) quarrying operations being undertaken without execution of formal lease deed and stamp duty which would have been realised on registration of lease deed has not yet accrued to the Government.

During exit conference, the Government stated that the legal opinion of the Advocate General is being sought for in this regard. However, this is yet to be done (December 2013).

### 5.5.8.3 Rejection of mining lease and transfer of land for other than mining purpose

The National Mineral Policy, 2008 provides that mineral wealth, though finite and non-renewable in the long term, is a major resource for development. The strategy for development of any mineral should naturally keep in view its ultimate end users and the conditions of mining leases shall favourably predispose the leased areas to systematic and complete extraction of minerals.

Audit scrutiny of the files relating to renewal of lease application revealed that a Government of India undertaking (GOI undertaking) which held two mining leases for mining 'magnesite' on an extent of 343.19 acres in four survey numbers applied for renewal of the same for a further period

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<sup>42</sup> Karur, Krishnagiri, Madurai and Villupuram.

of 20 years by submitting renewal applications in August 2000 and December 2001. The applications were forwarded by the District Collector to the CGM in July 2004 after obtaining technical report from the Assistant Geologist and inspection report from the Special Tahsildar (Mines). The renewal applications were not disposed off till 2007 and the lessee continued mining operations under the provisions of deemed renewal.

Audit, however, noticed that the State Government issued an order<sup>43</sup> in March 2007 to provide for transfer of 164.26 acres of the leased area to ELCOT, a State Government Undertaking, for establishment of IT Park. The plea raised by the GOI undertaking against the transfer of land comprised in the leased area was ultimately resolved in the High Powered Committee with the Government agreeing to offer alternative area containing adequate deposit of magnesite to the Company.

Audit further noticed that no IT Park has been established (December 2013) by ELCOT as no major Information Technology Company was interested in setting up their units in this area. An Architectural Consultant Company employed by ELCOT observed that since the land was used as a magnesite quarry, filling of the pits would require three to four rainfall years and artificial consolidation for this volume of work was not possible. Hence, ELCOT proposed to the Government that it would develop only 40 to 50 acres in the first phase.

Government replied during exit conference that ELCOT had retained only 50 acres and the remaining extent of land was being transferred back to the Government.

As seen from the details furnished by the GOI undertaking in June 2008, the extent of land transferred to ELCOT for establishment of IT Park had mineral deposit of 6.5 lakh tonnes worth ₹ 156 crore which was yet to be mined by the GOI undertaking. The purpose for which the land was transferred, viz., setting up of IT Park had also not materialised. As a result, land rich in mineral resources remained blocked up and could not be mined. The decision of the Government to transfer the land to purpose other than mining indicates lack of definite mineral policy and has also rendered further mining impossible in the land so transferred.

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<sup>43</sup> G.O.No.114 (Revenue) dated 7 March 2007

### 5.5.9 Non adherence to mining plan

As per Rule 19 read with Rule 18(1) of GCDR, mining operations are to be in accordance with the mining plan and it is valid for the entire duration of the lease. As per Rule 18(2) and 18(3), mining plan is to be reviewed every five years and is to be submitted for the next five years within 120 days before the expiry of the five year period. As per Rule 16(3) a holder of a lease desirous of seeking modification in the approved mining plan, shall apply to the competent authority, setting forth the intended modifications and explaining the reasons for the same.

As per Article 35 of Act *ibid*, stamp duty is leviable at one *per cent* of the amount receivable if the lease period is less than 30 years. As per the instructions<sup>44</sup> issued by Government (1998), stamp duty on lease deeds is payable on the anticipated total revenue realisable.

Audit scrutiny of the lease deeds, mining plans and permit registers of nine lessees in three districts<sup>45</sup> revealed that the lessees removed granite blocks over and above the quantity approved in the mining plan between the period from 2005-06 to 2012-13. The lessees did not modify their mining plan and got it approved as and when they cleared quantity of granites in excess of their mining plan. Thus there was no adherence to the mining plan. Audit further noticed that the lease deeds were executed for 20 years and stamp duty was paid on the seigniorage fees realisable for the entire period of lease on the estimated quantity of

minerals to be excavated as per the original mining plan. There was also short realisation of stamp duty of ₹ 45.38 lakh due to underestimation of quantity as per the original mining plan. In a few cases, the quantity excavated in a single year alone exceeded the total estimated quantity for 20 years as detailed in the following table:

Name of the District (No. of lessees)	Estimated quantity shown for 20 years (in cu.mts.)	Stamp Duty paid on revenue realisable on estimated quantity (in ₹)	Quantity excavated in one year (in cu.mts.)	Estimated production for 20 years based on average actual production (in cu.mts.)	Stamp Duty payable (in ₹)	Difference (in ₹)
Madurai (two)	1,000	12,000	9,379.181	30,872.597	4,86,243	4,74,243
	2,018	32,000	2,778.229	42,626.000	6,71,564	6,39,564
Tirunelveli (one)	1,500	23,870	1,749.677	49,700.547	7,83,029	7,59,159

<sup>44</sup> Letter No. (Ms.) 98 CT & RE dated 30 March 1998

<sup>45</sup> Krishnagiri, Madurai and Tirunelveli

After Audit pointed this out, the Department replied that mining plans were prepared on estimation basis and hence cannot be accurately predicted. The reply requires reconsideration since the deviation from the mining plan is considerable and it is imperative that such deviation be approved by the State Government as envisaged in the Rules.

#### **5.5.10 System of levy and collection of royalty**

Section 9(2) of MMDR Act provides that the holder of a mining lease shall pay royalty in respect of any mineral removed from the leased area. Rule 64-D of the MC Rules provides the guidelines for computing royalty on minerals on ad valorem basis. According to the Rule, the State wise average value for different individual minerals as published by Indian Bureau of Mines (IBM) in the 'Monthly Statistics of Mineral production' shall be the benchmark for computation of royalty by the concerned State Government in respect of any mineral produced any time during a month in the State.

IBM publishes the State-wise average sale prices of minerals on the basis of ex-mine price and production reported in the monthly returns submitted by the lessees to IBM. To arrive at the average sale price, the weighted average of the ex-mine prices with production as weight is taken. In case the sale occurred outside the lease area, the ex-mine price shall be the sale price less the expenditure incurred beyond mine site.

Audit noticed certain deficiencies in the system of levy and collection of royalty. These deficiencies are mentioned in paragraphs 5.5.10.1 and 5.5.10.2.

**5.5.10.1 Short realisation of royalty**

As per Section 9(2) of MMDR Act, the holder of a mining lease shall pay royalty in respect of any mineral removed from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. As per the guidelines prescribed in Rule 64-D of the MC Rules, royalty shall be computed on the sale price for minerals as published by the Indian Bureau of Mines (IBM). As per the proviso to the rule, if the information for a State for a particular month is not published by IBM, the latest information available for that mineral in the State shall be referred, failing which the latest All India rate shall be referred.

(i) Audit noticed from a perusal of permit/royalty payment register in seven<sup>46</sup> districts that 64 lessees removed minerals<sup>47</sup> during the period from 2008-09 to 2012-13 by paying royalty at rates which were not based on the prices published by IBM for those minerals. The Assistant Director of Geology and Mining of these Districts, while issuing transport permits to the lessees for removal of minerals from the leased area did not enforce payment of royalty at rates based on the prices published by IBM for those mineral as detailed below:

During the years from 2008-09 to 2012-13	Dunite	Gypsum	Quartz	Silica Sand
Quantity removed (in MT)	27,250	15,470	34,527	96,490
Royalty Rate paid (in ₹)	54 to 70	27 to 72	20 to 200	20 to 40
Royalty rate applicable (in ₹)	80	50.64 to 101.20	173 to 355	44.40 to 142.16

Audit noticed that in Salem District, the Department collected royalty at different amount for removal of the mineral ‘Dunite’ by two different lessees during the year 2012-13. Further different royalty amounts were adopted for the removal of the same mineral by lessees of different districts. Failure of the Department to follow the system of levy of royalty based on IBM declared values resulted in short realisation of royalty to an extent of ₹ 1.10 crore

After Audit pointed this out, the Department replied (November 2013) that District officers concerned were instructed to collect the entire amount and furnish rectification report. The Department further stated that an amount of ₹ 18.80 lakh had since been collected and the balance amount will be collected.

<sup>46</sup> Coimbatore, Karur, Nagapattinam, Salem, Tiruchy, Tiruppur & Villupuram  
<sup>47</sup> Dunite, Gypsum, Quartz and Silica Sand



(ii) Ball Clay is subject to levy of royalty at the rate of eight *per cent* on ad valorem basis.

Audit noticed in Cuddalore District that a GOI undertaking (only lessee mining ball clay in the State) removed 15,072.37 MT of ball clay during the period from April 2011 to June 2012 and 6,181.92 MT from July 2012 to March 2013. Audit noticed from the copy of Annual return for the year 2011-12 furnished to the Department that the lessee declared the sale price of ball clay at ₹ 1,000 per MT. However, the lessee paid royalty at ₹ 23 per MT on tonnage basis as IBM did not notify the price of ball clay for the period prior to June 2012 (except December 2011). Further even after IBM notified the price at ₹ 1,000 per MT for subsequent period (from July 2012), the lessee paid royalty at ₹ 23 per MT though royalty was payable at ₹ 80 per MT on the basis of sale price declared by the IBM. This resulted in short realisation of royalty of ₹ 12.38 lakh.

The Department failed to take up the issue of non publishing of price by IBM for the period from April 2011 to June 2012 and also failed to adopt the IBM published price for determination of rate of royalty for the period from July 2012 to March 2013.

After Audit pointed this out, the Department issued notice to the lessee in respect of the period subsequent to June 2012 and stated that IBM would be addressed regarding the discrepancy in respect of the period prior to June 2012. Further report is awaited (December 2013).

#### **5.5.10.2 Non-monitoring of the invoice price**

The mineral 'Garnet' was subjected to levy of royalty at specific rate on tonnage basis upto the year 1997 and subsequently, the system of levy of royalty was shifted to ad valorem basis. With effect from December 2009, the State wise average published by IBM is the basis for levy of royalty. The rate of royalty as per Schedule to MMDR Act is three *per cent* on the price published by the IBM.

The system of levy on ad valorem basis was envisaged to augment the revenue of the State taking into account the rise in prices of the minerals.

Audit pointed out (2008-09) to the Department the lesser realisation of royalty in respect of Garnet consequent to shifting to the system of levy on ad valorem basis from tonnage basis. The suggestion of the State Government (December 2010) for considering the highest free on

board/sale value among exporters for fixing the sale value of garnet as it reflects the actual sale price of the mineral exported by the lessees was turned down by IBM (February 2011) stating that the same may make the process arbitrary and biased which could be challenged by the mine owners in the court of Law. The IBM further stated that since the copy of the returns is submitted by the mine owners to the concerned State Government, they may make efforts to get the actual price reported in the returns.

Audit scrutiny in Kanyakumari and Tirunelveli Districts revealed that four lessees removed 51.24 lakh MT of Garnet/run of mine (Beach sand mineral) during the years 2008-09 to 2011-12 and paid royalty at rates ranging between ₹ 14.13 and ₹ 18.45 per MT on the basis of IBM declared prices which ranged between ₹ 401 and ₹ 615 per MT for the State. The IBM declared price of the mineral for the State of Orissa ranged between ₹ 2,628 and ₹ 5,362 per MT though the State of Tamil Nadu accounts for 90 *per cent* of production of the mineral. Audit scrutiny further revealed that a GOI undertaking situated in Kanyakumari District had reported sale price of Garnet ranging between ₹ 2,825 and ₹ 4,400 per MT during the said period.

Audit observed increase in rates of royalty in respect of other minerals like Gypsum, Quartz and Ball Clay subsequent to shifting of levy based on advalorem basis, though the rate of royalty in respect of Garnet had come down. In order to ascertain the reason for reduction in rate of royalty, Audit sought copies of returns filed by the lessees of beach sand minerals and it was replied that apart from GOI undertaking, none of the lessees filed monthly returns with the Government.

Scrutiny of details of production and sale price mentioned in Annual returns submitted by lessees to the IBM of 'Garnet' for the years 2009-10 to 2011-12 revealed that some lessees have quoted run of mine (ROM) values ranging between ₹ 300 and ₹ 500 per MT. Inasmuch as the determination of State-wise average price of minerals is based on weighted average method, the lesser value quoted by major producers of minerals tends to bring down the IBM published price.

The State Government, in the absence of returns of the lessees, could not have verified the sale price of the mineral declared by them to IBM and also did not take up the matter with IBM regarding the adoption of ROM price for the purpose of determining the price of processed minerals.

This resulted in the State continuing to realise lesser amount of royalty in respect of the mineral 'Garnet'.

Audit further noticed that the export price of the lessees during the period 2009-10 and 2010-11 ranged between ₹ 4,990 and ₹ 5,966 per MT. Even adopting the rate of ₹ 45 per MT applicable to the period prior to 1997, the short fall in realisation of royalty in respect of the quantity of minerals removed by the lessees during the period between 2008-09 and 2011-12 works out to ₹ 13.93 crore.

After Audit pointed this out, the Government stated during exit conference that the GOI will suitably be addressed to publish the sale price of Garnet based on export value.

### 5.5.11 Environmental issues in mining

#### 5.5.11.1 Environmental clearances

The Supreme Court of India held (February 2012) that the leases of minor minerals including their renewal for an area of even less than five hectares be granted by the States and Union Territories only after getting environmental clearances from the Ministry of Environment and Forest.

Audit noticed from a scrutiny of lease files in ten<sup>48</sup> Districts that 177 leases for quarrying minor minerals involving area less than five hectares were granted during the period from February 2012 to August 2012 without requisite clearances from the Environmental Authorities.

After Audit pointed this out, the Department replied that orders instructing the District offices to insist on environmental clearances even for less than five hectares were communicated by the State Environmental Impact Assessment Authority (SEIAA) and the Commissioner of Geology and Mining between September and November, 2012. The directives of the Supreme Court were made effective on the orders of the executive and hence the leases granted between February, 2012 and August 2012 without environmental clearance was in order.

As per SEIAA, the Environmental Clearances for mining leases even for less than five hectares was mandatory from February 2012. Therefore the granting of leases without obtaining environmental clearance from February 2012 was not in order.

#### 5.5.11.2 Land degradation

As per Rule 37 of GCDR, every lease holder shall take immediate measures for planting in the area held under lease or any other area selected by the State Government for this purpose, such number of trees sufficient to improve the environment and to minimise effects of land degradation during the entire period of such lease. He shall also look after such plantations during the subsistence of the lease.

Audit noticed from a review of the granite quarry records in eight<sup>49</sup> District Offices that no details were available either regarding identification of alternate land for compensatory afforestation or the details of trees planted and maintained by each lease holder during the currency of lease.

The Department replied that there are no codal instructions to verify the plantation raised in the granite quarry. However

inspection will be carried out to ensure plantation.

<sup>48</sup> Coimbatore, Cuddalore, Dharmapuri, Krishnagiri, Madurai, Nagapattinam, Salem, Tirunelveli, Tiruppur and Villupuram

<sup>49</sup> Dharmapuri, Dindigul, Karur, Krishnagiri, Namakkal, Salem Tiruppur and Villupuram

After Audit pointed this out, the Government replied (November 2013) that instructions have since been issued to all the District Officers regarding implementation of the rule viz., planting as well as maintaining such plantations during the subsistence of lease. However, the fact remains that the Government did not collect or maintain data for monitoring compliance in this important area though the rule was framed as far back as in 1999.

### **5.5.12 Internal control mechanism**

The internal control mechanism is intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. The internal controls also help in creation of reliable financial and management information system for prompt and efficient decision making and adequate safeguard against non/short collection or evasion of tax. The internal control mechanism in the Department was weak as might be seen from the following observations.

#### **5.5.12.1 Non submission of returns**

The MCDR and GCDR provide for submission of periodical returns by the lessees to the IBM with a copy each to Regional Controller of Mines and the State Government. The returns prescribed under the Rules, *inter alia*, require furnishing of details of opening stock, production, despatches, closing stock, Pit's mouth value of minerals and also details of wastes, rejects, overburden. The returns also require furnishing of details of sales/despaches effected for domestic consumption and for exports. The returns, if filed with the District Offices, could be made use of, while visiting the quarry site and scrutinising the Pit's mouth register. Audit noticed non compliance with the provisions of the Rules regarding filing of returns as mentioned below:

##### **(i) Major minerals**

As per Rule 52 of the Rules *ibid*, copies of returns shall also be submitted to the State Government concerned in whose territory the mine area is situated or to such authority as that Government may specify in this behalf. Rule 58 provides for levy of penalty extending to ₹ 50,000 for contravention of any provisions of the rules.

Audit analysis of the information furnished by the office of the CGM revealed that out of 3,615 returns due from the lessees for the years 2008-09 to 2011-12, only 161 annual returns were filed with the Department.

Year	Number of leases	Number of annual returns filed	Returns due
2008-09	871	59	812
2009-10	909	41	868
2010-11	923	59	864
2011-12	912	2	910
<b>Total</b>	<b>3,615</b>	<b>161</b>	<b>3,454</b>

In the absence of such returns, periodical production/closing stock of minerals was also not monitored by the Department. The Department did not take any action regarding such non filing of returns. The Department also did not enforce the provision for levy of penalty.

After this was pointed out, the Government replied that periodical returns would be called for and suitable instructions would be issued to district officers. Report regarding the levy of penalty is awaited (December 2013).

## (ii) Granite

As per Rule 41 of GCDR, half yearly and annual returns in respect of a granite quarry is to be submitted within 15 days of the following month for the preceding half year and before 1<sup>st</sup> July of each year for the preceding year respectively. Rule 47 of GCDR provides for levy of penalty extending upto ₹ 5,000 for contravention of any of the provisions of the rules.

Audit analysis of the information furnished by 12 districts offices<sup>50</sup> indicate that a total of 2,392 leases for quarrying granite were in operation during the period from 2008-09 to 2012-13. However, returns in respect of 35 leases alone were filed with the Department. The Department did not take any action regarding non filing of returns in remaining cases.

The Department did not also enforce the provision for levy of penalty for failure to file returns.

The above indicates a lack of proper control mechanism in the Department to ensure due filing of returns by the lessees.

### 5.5.12.2 Internal audit

Internal audit is generally defined as control of all controls as it is a means for an organisation to assure itself that the prescribed systems are functioning reasonably well. An independent and effective internal audit under the direct control of the Head of the Department is essential for ensuring compliance of the provisions of the Acts/Rules and the departmental instructions regarding assessment of revenue, prompt raising of demands and for the overall functioning of the administration effectively, efficiently and economically.

<sup>50</sup> Coimbatore, Dharmapuri, Dindigul, Kanyakumari, Karur, Krishnagiri, Madurai, Namakkal, Salem, Tirunelveli, Tiruppur and Trichy

Internal audit has not evolved since the formation of the Department in 1983. Internal audit was however conducted by an inspector deputed by the Chief Internal Auditor and Internal Auditor for Statutory Boards and an Assistant Director of the Department. Even this post was withdrawn on 12 April 2008. Internal audit was not conducted in any of the offices thereafter.

Mention was made in the Audit Report (Revenue Receipts) for the year ended 31 March 2009 of the absence of separate internal audit wing in the Department. The Commissioner stated (October 2009) that the Department had already taken up the matter with the Government for establishment of a separate internal audit wing. However, separate internal audit wing has still not been instituted. The Department replied (November 2013) that though many proposals were sent to Government for creation of Internal Audit wing, the same was not favourably considered by the Government. Government during Exit Conference stated that the Chief Internal Auditor and Internal Auditor for Statutory Boards has been requested (April 2013) to redeploy one post of Assistant Director to the internal audit wing.

**The Government may take appropriate measures to establish internal audit wing for effective administration of the Department.**

#### **5.5.12.3 Absence of departmental manual**

Audit observed that the Department has not devised a Code or Manual setting out the functions and the responsibilities of staff of all categories in accordance with the instructions issued by the Government/Department, which could act as a key document for perspective planning, reference and internal control.

#### **5.5.12.4 Inadequate inspection of leases**

Section 24 of MMDR Act provides for power of entry and inspection of any mine by any person authorised by the Central or State Government in this behalf. As per Rule 25 of TNMMR, the registered holder or the lessee shall allow the officer so designated to enter upon the premises over which mining operations are carried on for the purpose of inspecting the same.

Audit noticed from the information furnished by the Department that in 10 districts<sup>51</sup>, only 1,810 inspections have been carried out during the period from 2008-09 to 2012-13, though a total of 15,231 leases were in operation during the said period. The percentage of inspection varied between 6.97 and 14.74 *per cent*. In Karur District, only 10 inspections were carried during

the period 2008-09 to 2012-13, while in Krishnagiri District, only 26 inspections were done. In Kanyakumari district, the Deputy Director of Geology and Mining was not able to furnish information regarding inspections carried out during the period 2008-09 to 2011-12.

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<sup>51</sup> Coimbatore, Karur, Krishnagiri, Madurai, Namakkal, Nagapattinam, Salem, Tirunelveli, Trichy and Tiruppur.

Audit further observed that the Department did not prescribe any system or procedure for inspection of leases of oil and natural gas. There were 19 leases held by a Government of India Undertaking in Nagapattinam and Tiruvarur Districts and the same were in operation. The Department did not inspect any of these leases at any time during 2008-09 to 2012-13.

Non-inspection of leases is fraught with risk of non-detection of whether:

- Mining and exploration activities are carried out in lawful manner as per provisions of Acts and the Rules made thereunder;
- adequate measures are adopted for preservation, conservation and development of minerals and mining activities are carried out without excessive wastage of minerals; and
- the quantity of minerals, oil, natural gas excavated are correctly reflected in the monthly production returns submitted by the lease holder and royalty, dead rent and surface rent are correctly paid thereon.

#### **5.5.12.5 Enforcement function**

The District Officers, besides, forwarding the license and lease applications for the grant of license/lease to the Commissioner and Government, issues permits for removal of mineral from the leased quarry, undertakes enforcement functions by intercepting and checking the suspected vehicles and are also to check the Pit's mouth register.

On a review of the statement showing detection of illicit mining/transportation of minerals, it was noticed in Audit that though illicit mining/transportation of minerals were booked by the Geology and Mining Department, Revenue Department and Police Department, there was no follow up to trace the quarry origin of the mineral. Action was limited to mere imposition of fines on the seized cases. The number of cases booked for illicit transportation/mining of minerals, during a period of four years is given in following table:

(₹ in crore)

Year	Number of cases booked for illicit quarrying		Number cases booked for illicit transportation	
	No.	Penalty realised	No.	Penalty realised
2008-09	409	1.23	7,910	20.71
2009-10	228	1.25	7,938	18.15
2010-11	252	1.49	7,988	19.00
2011-12	103	0.93	9,320	25.81
<b>Total</b>	<b>992</b>	<b>4.90</b>	<b>33,156</b>	<b>83.67</b>

Entrusting the cases to a separate and specialised enforcement wing within the Department which could trace back the mineral to the source of illicit quarrying/transportation would be more effective.

### **5.5.13 Conclusion**

Performance Audit of the mining activities of the State reveals (i) lacunae in the system of grant of leases resulting in blocking of mineral development and consequent loss of revenue to the Government; (ii) short collection of royalty due to deficiencies in system of publishing prices of minerals by IBM as well as in adoption of notified rates; (iii) poor internal controls as evidenced by absence of internal audit, non monitoring of furnishing of returns by the lessees and non inspection of mining leases. No follow up action was undertaken for cases booked for illicit transportation/mining and action was limited to mere imposition of fines.

### **5.5.14 Recommendations**


**The Government may**

- **consider prescribing a system to watch timely disposal of lease applications/renewal applications pending at the Department/ Government level.**
- **ensure correctness of the sale prices furnished by the lessees of major minerals to the Indian Bureau of Mines to guard against loss of revenue to Government.**



- strengthen enforcement mechanism to ensure effective check on illicit quarrying/transportation.
- take measures to strengthen the internal control system to ensure compliance of the provisions of the Acts and Rules.

Chennai  
Dated 1 April 2014



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Principal Accountant General  
(Economic and Revenue Sector Audit)  
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Dated 4 April 2014



(SHASHI KANT SHARMA)  
Comptroller and Auditor General of India