

CHAPTER-VII

Mines and Minerals

EXECUTIVE SUMMARY	
Tax administration	Assessment and collection of mining receipts are governed by the Mines and Minerals (Development and Regulation) [MMDR] Act, 1957, the West Bengal Minor Minerals (WBMM) Rules, 2002, the Public Demands Recovery (PDR) Act, 1913, the Cess Act, 1880, the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.
Very low recovery by the Department against observations pointed out by audit	During 2008-09 to 2012-13, audit pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc with revenue implication of ₹ 376.95 crore in 20 paragraphs. Of these, the department/Government had accepted audit observations in 16 paragraphs involving ₹ 141.27 crore and had since recovered ₹ 1.38 crore which was only 0.98 <i>per cent</i> .
Results of audit conducted in 2012-13	<p>In 2012-13, test check of records of 12 units relating to mining receipts indicated underassessment of tax and other irregularities involving ₹ 11.70 crore in 85 cases.</p> <p>The department accepted underassessment and other deficiencies in 87 cases of ₹ 8.18 crore, of which 78 cases involving ₹ 7.60 crore were pointed out during the year 2012-13 and the rest in the earlier years. An amount of ₹ 35.86 lakh was realised in nine cases at the instance of audit during the year.</p>
What has been highlighted in this Chapter	<p>In this Chapter cases of non/short realisation of price of brick earth extracted unauthorisedly, non/short realisation of royalty and cess on brick earth and non-realisation of royalty, penalty and fine due to lack of co-ordination between the assessing authority and the realisation authority noticed during the test check of records of the District Land and Land Reforms Offices, Block Land and Land Reforms Offices and the Mining Office, Purulia amounting to ₹ 2.72 crore have been presented.</p> <p>Other similar omissions on the part of the assessing authorities were pointed out by audit repeatedly, but the irregularities persisted and these remained undetected by them till these were detected once</p>

	again in audit. The irregularities/omissions were apparent from records made available to audit by the department; however they were unable to detect these mistakes.
Conclusion	The Government may revamp the recovery mechanism to ensure that the amount involved in accepted cases is promptly recovered.

CHAPTER VII: MINES AND MINERALS

7.1 Tax administration

The mining receipts comprise mainly the application fees for lease/permits for reconnaissance, prospecting and reserve licences, royalty for extraction of major and minor minerals, dead rent, surface rent, fines and penalties for offences and interest for delayed payment of dues etc. Primary Education cess, Rural Employment cess, Public Works cess and Road cess are also realised from the holders of quarry permits and mining leases.

Assessment and collection of mining receipts are governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the West Bengal Minor Minerals (WBMM) Rules, 2002, the Public Demands Recovery (PDR) Act, 1913, the Cess Act, 1880, the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.

Four departments viz. Commerce and Industries (C&I) Department, Finance Department, Land and Land Reforms (L&LR) Department and the General Administration Department are associated with the assessment, levy and collection of mining receipts. All departments are headed either by an Additional Chief Secretary or Principal Secretary/Secretary level officer and assisted by Director and district level officers.

7.2 Revenue impact of audit reports

During the last five years (including the current year's report), Audit pointed out through its reports non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 376.95 crore in 20 paragraphs. Of these, the department/Government had accepted audit observations in 16 paragraphs involving ₹ 141.27 crore and had since recovered ₹ 1.38 crore. The details are shown in the following table:

Table 7.1 – Revenue impact of audit reports

(₹ in crore)

Year of audit report	Paragraphs included		Paragraphs accepted by the department		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2008-09	05	1.59	04*	1.43	03	0.10
2009-10	03	4.30	02*	4.22	02	0.26
2010-11	04	2.98	04	2.98	04	0.42
2011-12	05	365.36	03*	129.92	02	0.07
2012-13	03	2.72	03	2.72	03	0.53
Total	20	376.95	16	141.27	14	1.38

* partly accepted.

The amount recovered was only 0.98 *per cent* in the accepted paragraphs which was very low.

The Government may revamp the recovery mechanism to ensure that the amount involved in accepted cases is promptly recovered.

7.3 Working of internal audit wing

There was no separate Internal Audit Wing (IAW) for the units related to mining receipts. As the mining activities are regulated by Land and Land Reforms (L&LR) Department, the IAW of the L&LR Department is liable to conduct audit of the units involved in regulation of mining activities. The internal audit wing of the L&LR Department was re-introduced in the year 2007-08 with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations, executing orderly and effective operations and safeguarding resources against loss. Performance of the IAW of L&LR has already been discussed in Para 3.5 of this report.

7.4 Results of audit

In 2012-13, Audit test checked the records of 12 units relating to mining receipts and found underassessment of tax and other irregularities involving ₹ 11.70 crore in 85 cases which fall under the following categories:

Table 7.2 – Results of audit

(₹ in crore)			
Sl. no.	Categories	No. of cases	Amount
1.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	20	3.66
2.	Non/short assessment/levy/realisation of royalty and cess	37	1.78
3.	Penalty for underperformance	7	3.99
4.	Non/short raising of demand	12	1.35
5.	Other cases	9	0.92
Total		85	11.70

During the year, the department accepted underassessment and other deficiencies in 87 cases of ₹ 8.18 crore, of which 78 cases involving ₹ 7.60 crore were pointed out during the year 2012-13 and the rest in earlier years. An amount of ₹ 35.86 lakh was realised in nine cases during the year.

A few illustrative cases involving ₹ 2.72 crore are mentioned in the following paragraphs.

7.5 Audit observations

Scrutiny of records in the offices of the District Land and Land Reforms Offices and the Block Land and Land Reforms Offices indicated non/short realisation of price of brick earth extracted unauthorisedly, non/short realisation of royalty and cess on brick earth and non-realisation of royalty, penalty and fine due to lack of co-ordination between the assessing and the realisation authority as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test checks carried out in audit. There is a need for the Government to improve the internal control system including internal audit so that recurrence of such irregularities is avoided.

7.6 Non/short realisation of price of brick earth extracted unauthorisedly

Section 4(1) of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 prescribes that no person shall undertake any mining operation in any area except under the authority of a permit/licence of a mining lease granted under the Act. In addition, under Section 21(5) of the Act in the event of unauthorised extraction of minerals the Department is empowered to recover either the minerals raised unlawfully or where such minerals have already been disposed of, the price thereof. By an order issued in September 1984, the Board of Revenue, West Bengal fixed the price of brick earth as ₹ 30 per 100 cubic feet (cu ft) for the year 1981 with an increase of ₹ 1.50 per 100 cu ft each year.

In seven¹ District Land and Land Reforms Offices (DL&LROs), audit found that in 271 cases, the brick field owners had extracted 3.68 crore cu ft of brick earth between 2008-09 and 2010-11 without any permit/licence as required. In 65 cases, the price of brick earth (₹ 0.72 crore) was not realised, while in the remaining 206 cases, there was short realisation of ₹ 0.96 crore due to application of rates lower than the prescribed rate. Thus there was total non/short realisation of price of brick earth of ₹ 1.68 crore.

After it was pointed out, DL&LROs in 101 cases involving ₹ 67.89 lakh admitted the audit observations without reporting any action towards realisation. In the remaining 170 cases involving ₹ 99.93 lakh, DL&LROs did not furnish any specific reply (November 2013).

The Government accepted (September 2013) the audit observation and stated that ₹ 48.42 lakh was realised in 142 cases but did not submit any report on realisation of the balance amount (November 2013).

7.7 Non /short realisation of royalty and cess on brick earth

Rule 27(1) of the West Bengal Minor Minerals (WBMM) Rules, 2002 provides that the district authority or any other officer authorised in this behalf by the State Government may grant quarry permit to any person to extract any minor mineral on pre-payment of royalty at prescribed rates. Further, under

¹ Birbhum, Burdwan (East), Nadia, North 24 Parganas, Paschim Medinipur, Purba Medinipur and South 24 Parganas.

the provisions of the Cess Act, 1880 (as amended in 1984), the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, the holders of quarry permits are liable to pay different types of cesses at prescribed rates on extraction of minor minerals.

In three² DL&LROs, the brick field owners continued to extract brick earth between 2008-09 and 2010-11 without any advance payment of royalty and cess as required; neither was any prior permit taken by them as required for extraction of brick earth. Further, in 26 instances, it was seen that although the brick field owners had extracted 38.45 lakh cu ft of brick earth, neither did the owners pay the royalty and cess amounting to ₹ 12.89 lakh, nor was any action initiated by the DL&LROs to realise these dues. In other four cases, the brick field owners extracted 6.75 lakh cu ft of brick earth and paid royalty and cess of ₹ 0.87 lakh against ₹ 2.20 lakh, but the DL&LROs did not initiate any action to realise the differential amount. Thus, there was non/short realisation of royalty and cess totalling to ₹ 14.22 lakh in these 30 cases.

The DL&LROs admitted the audit observations but failed to report any further realisation (November 2013).

The Government accepted (September 2013) the audit observation and stated that ₹ 2.78 lakh was realised in six cases but did not submit any report on realisation of the balance amount (November 2013).

7.8 Non-realisation of royalty, penalty and fine due to lack of co-ordination between the assessing and the realisation authority

Assessment and collection of mining receipts are governed by the MMDR Act, 1957 and the WBMM Rules, 2002. The Commerce and Industries Department's order no.1871-Mines dated 11.04.1969 prescribes procedures for assessment of royalty etc. payable to the State Government on account of Mines and Minerals. As per the order, the Mining Officer shall make assessment in respect of royalty, dead rent and other charges (except cases of short term leases for minor minerals) and forward the assessment report to the DL&LRO for realisation.

During scrutiny of lease deed agreements alongwith case records of the mining leases in the Mining Office (MO) at Purulia, it was found that the West Bengal Mineral Development and Trading Corporation (WBMDTC) Ltd. had extracted 2,545.22 cubic metre (cu m) of Black Stone against the minimum prescribed quantity of 2,05,000 cu. m as per the lease deed during the period from 31.01.2005 to 30.06.2008. The MO, Purulia assessed that there were dues (WBMDTC) of ₹ 90.08 lakh on account of royalty, penalty for short extraction and fine for delayed submission of monthly returns. The assessment report was sent to the DL&LRO, Purulia in March 2009 for raising the demand; however DL&LRO, Purulia stated that it was not received till the date of audit (March 2011). This led to consequent non-realisation of revenue of ₹ 90.08 lakh. It was also noticed that there was no system of co-ordination between assessing (the MO) and realisation authority (the DL&LRO) to

² North 24 Parganas, Paschim Medinipur and South 24 Parganas.

monitor receipt of assessment reports, raising of demands and other follow-up action taken on the basis of such reports.

The MO, Purulia (March 2011) and the DL&LRO, Purulia (May 2013) admitted the audit observation. Their report on realisation is awaited (November 2013).

The Government accepted (September 2013) the audit observation and stated that ₹ 2.01 lakh was realised and for realisation of the remaining amount, efforts were being undertaken. Their report on further action taken is awaited (November 2013).

Kolkata

(MAUSUMI RAY BHATTACHARYYA)
Accountant General
(Economic and Revenue Sector Audit),
West Bengal

Countersigned

New Delhi

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India