

CHAPTER-VI
OTHER TAX AND NON-TAX RECIEPTS

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6.1 Tax administration

This chapter consists of receipts from Forests, Mining, Industries, Public Works and Irrigation & Public Health Departments. The administration is governed by Acts and Rules framed separately for each Department.

6.2 Results of audit

In 2013-14, test check of the records of 15 units relating to forest receipts showed non/ short recovery of royalty, non-levy of interest/ extension fee, Non/ short realisation of royalty, dead/ surface rent etc. and other irregularities involving ₹10.57 crore in 82 cases, which fall under the following categories in the **Table 6.1** below:

Table 6.1

Sr. No.	Categories	Number of cases	₹ in crore
			Amount
FOREST DEPARTMENT			
1.	Non/ short recovery of royalty	10	1.89
2.	Non-levy of interest, blockade of revenue due to seized timber, short realisation of cost of trees	15	1.34
3.	Other irregularities	25	4.75
Total		50	7.98
INDUSTRIES DEPARTMENT			
1.	Non/ short realisation of royalty, dead/ surface rent etc.	27	1.57
2.	Other Irregularities	05	1.02
Total		32	2.59
Grand Total		82	10.57

During the course of the year, the Department accepted underassessment and other deficiencies of ₹7.11 crore in 88 cases which were pointed out in earlier years. An amount of ₹5.74 crore was realised in 81 cases during the year 2013-14.

A few illustrative cases involving ₹99.47 lakh are discussed in the following paragraphs.

FOREST DEPARTMENT

6.3 Blocking of revenue due to non-disposal of seized timber

Section 52 of Indian Forest Act provides for seizure of property liable to confiscation. As per departmental instructions April 1951, either the seized timber or forest produce should be kept in the spurdagi (safe custody) of a sapurdar¹ or with the concerned field staff after it is accounted for in form-17. The timber/ forest produce so accounted for is required to be disposed off after the offence has either been compounded or decided by the Court. The PCCF instructed (April 1999) all the CFs that where the spurdagi of forest produce is taken for unduly long period, the concerned investigating officer should be asked to procure the orders of competent court for auctioning the seized property within 15 days, to minimise expenditure on watch & ward and deterioration/pilferage of such produce.

Audit scrutiny of timber forms of five forest divisions² between November 2013 and February 2014 showed that in 20 forest ranges, the department had seized (between 2011-12 and 2012-13) timber measuring 169.8461 cu.m having value of ₹77.57 lakh including VAT of ₹9.38 lakh. Audit scrutiny further showed that the seized timber was lying in various depots of the department. There was nothing on record to indicate that the concerned DFOs/ investigating officers had taken any concrete steps or obtained the orders of Court to dispose off the seized timber. Thus, non-disposal of seized timber not only resulted in blocking of revenue to that extent but also incurrence of expenditure on watch and ward and further deterioration of timber.

On this being pointed out (November 2013 and February 2014), the DFO Rohru stated that auction orders were being obtained from the Hon'ble Court and the timber would be disposed of accordingly. The reply was not acceptable because the departmental officials did not take any timely action to dispose of seized timber which was still lying in the depots.

The matter was reported to the Department and the Government between December 2013 and April 2014. The reply has not been received (December 2014).

6.4 Short recovery of revenue

As per the Department instruction of September 1991, the cost of trees standing on the forest land diverted/ transferred for non-forestry purposes to be recovered at the prevailing, market rates before handing over the area to the user agencies after obtaining the approval from the Government of India (GOI). The PCCF vide his letter of March 2000 had further clarified that the cost of Taxus Bacatta trees is to be charged at per with Deodar.

Audit test checked the records of Bilaspur and Nahan forest divisions between December 2013 and February 2014 and noticed that the final approval of

¹ A lambardar or any reliable person of a place.

² Bilaspur: vol: 25.3991 cu.m ₹7.65 lakh, Chopal: vol: 45.525 cu.m ₹23.62 lakh, Kullu: 63.271 cu.m ₹29.02 lakh, Rampur: 4.721cu.m ₹2.45 lakh and Rohru: 30.930 cu.m ₹14.83 lakh

diversion of 98.079 *hectare* of forest land containing 14,185 trees/ Saplings of various species³ with 1,818.4828 cu.m standing volume for non-forestry purposes was received between June and July 2012 from the GOI. The department incorrectly worked out demand and realised ₹306.44 lakh (between January 2011 and July 2011) in respect of trees/ saplings falling in the alignment of the project⁴, at the market rates applicable in 2009-10 instead of ₹340.38 lakh chargeable at the market rates prevailing during 2012-13. This resulted in short recovery of Government revenue of ₹33.94 lakh including VAT.

The matter was reported to the Department and the Government between January 2014 and May 2014, their replies have not been received (December 2014).

6.5 Non-crediting of departmental charges

As per instructions of Principal Chief Conservator of Forests (PCCF), Himachal Pradesh, issued in May 2004, departmental charges at the rate of 17.5 *per cent* shall be charged under the Compensatory Afforestation (CA) schemes to cover the establishment and infrastructure expenditure of the department. As per PCCF letter of March 2003, the amount so realised on account of the departmental charges should be deposited as revenue of the department instead of depositing the same in compensatory afforestation head.

Audit noticed between November 2013 and February 2014 from the records of four forest divisions⁵ that ₹3.55 crore on account of CA inclusive of departmental charges of ₹52.31 lakh was realised in respect of 18 cases of diversion of forest land for non-forestry purposes. The departmental charges of ₹52.31 lakh so realised were credited in Compensatory Afforestation Fund Management and Planning Authority account instead of revenue head of the Government. Thus, non-credit of departmental charges in the Government account resulted in understatement of revenue to that extent.

The matter was reported to the Department and the Government between December 2013 and May 2014. The reply has not been received (December 2014).

6.6 Irregular deletion of resin blazes

After nationalisation of forest working, resin tapping work of resin lots rests exclusively with the Himachal Pradesh State Forest Corporation (HPSFC), being the sole agent for the purpose. The Principal CCF vide instructions of May 2000, had directed all the DFOs that proposal for deletion of blazes be prepared by the respective DFOs by the end of the tapping season (latest by 15th December) every year, so that the approval of the CF is obtained well before the commencement of the ensuing tapping season (15th March).

³ *Ban, Chil, Kokath, Khair, Shisham, Mango, Jamun, Eucalyptus, Tunni, Sain, Simbal and other B/L*

⁴ Koldam-Ludhiana Transmission Line and Kumarhatti- Nahan Road, Transmission line from Devni to Kala-Amb

⁵ DFOs Bilaspur, Chopal, Nahan and Rampur

Audit noticed between November 2013 and February 2014, from the resin blazes records of three divisions⁶ that 10,514 resin blazes were not handed over for tapping to HPSFC for tapping seasons of the years 2011, 2012 and 2013. Audit scrutiny showed that the prior requisite approval of the Conservator of Forest (CF) to delete these blazes had not been obtained. Thus, the deletion of blazes without seeking prior approval of CF was irregular which resulted in loss of revenue of ₹4.90 lakh.

The matter was reported to the Department and the Government between December 2013 and April 2014. The replies have not been received (December 2014).

⁶ Bilaspur, Chopal and Mandi

INDUSTRIES DEPARTMENT

6.7 'Receipts from Minor Minerals'

Receipts from mines and minerals consist mainly of royalty, dead rent, surface rent, fees and fines. The principal minor minerals found in Himachal Pradesh are building stones, masonry stone, limestone, *bajri*, brick earth, and *rorri* etc.

The extraction of minor minerals is governed and regulated by the Mines and Minerals (Development and Regulation) Act (MMDR Act) 1957 and Mineral Concession Rules (MCR), 1960. The Himachal Pradesh Minor Minerals (Concession) Revised Rules, (HPMMCRR) 1971 under Section 15 of the Act *ibid* and Mining Policy in the year 1986 under the Himachal Pradesh Minerals (Vesting of Rights) Act, 1983 were framed which were later modified in 1998. Further the state government formulated the River/ Stream Bed Mining Policy Guidelines 2004 and again notified Himachal Pradesh Mineral Policy 2013 for regulation of mines and minerals in the state under Government of India (GOI) promulgated National Mineral Policies (NMP), 1993 and 2008 (for non-fuel and non-coal minerals). The Department of Industries, (Geological Wing) is the nodal agency to regulate and implement the provisions of the central as well as state enactments on mineral receipts and concessions. The receipt from minor minerals in the State had increased to ₹147.90 crore in 2013-14 from ₹113.84 crore in 2010-11.

Audit on 'Receipts from Minor Minerals' covering the period from 2010-11 to 2012-13 was conducted between March 2014 and June 2014 through test check of records in the offices of the State Geologist, Shimla and seven⁷ out of twelve Mining Offices. The following are the audit findings:

6.7.1 Non/ short recovery of Royalty, Dead rent, Surface rent and interest

Royalty and interest

Rule 21 (1) (i) (c) of the Himachal Pradesh Minor Minerals (Concession) Revised Rules 1971, provides that the lessee shall pay royalty in advance for the material to be removed from the leased area. Royalty for sand, stone etc. is to be charged at the rate of ₹20 per tonne on the basis of production and other measures in terms of notification dated 8.10.2007, issued by the Department of Industries, Government of Himachal Pradesh. The department further clarified in December 2002 that seven units of electricity consumption for production of one tonne of grit/ *bajri* by the stone crushers was justified and genuine. The rates of royalty were further revised from ₹20 to ₹40 per tonne vide notification dated 16.01.2012. In case of default in payment of royalty for more than 60 days from the due date of payment, interest at the rate of 24 *per cent* per annum is also leviable.

Audit test checked between March 2014 and June 2014 the registers of royalty and returns filed by seven lessees in the office of three MOs⁸ and noticed that after consuming 4,77,697.50 units of electricity, 68,242.49 tonnes of sand, stone

⁷ MOs Bilaspur, Kangra at Dharamshala, Kullu, Shimla, Sirmour at Nahan, Solan and Una

⁸ MOs Kangra at Dharamshala, Kullu and Una

and aggregate⁹ was produced by these lessees during 2011-12 to 2012-13. The royalty amounting to ₹26.38 lakh as assessed by the department was required to be recovered from these lessees but it was neither deposited by the lessees nor demanded by the department, which resulted in non-recovery of royalty to that extent. Besides, interest of ₹3.18 lakh at the prescribed rates was also leviable.

(ii) Audit further test checked between May and June 2014 the registers of royalty and returns filed by the seven lessees in the office of two MOs¹⁰ and noticed that royalty of ₹25.74 lakh was required to be recovered from these lessees on account of 96,304 tonne crushed stone extracted by them from the leased area during 2011-12 and 2012-13. Out of this, the Department had recovered only ₹19.07 lakh, which resulted in short recovery of royalty of ₹6.67 lakh, besides interest of ₹2.89 lakh was also leviable.

On this being pointed out (between March 2014 and June 2014), the MO, Bilaspur intimated (August 2014) an amount of ₹0.12 lakh was recovered in respect of two lessees and efforts had been made to recover the balance amount. Another MO stated that action would be taken as per the provisions of Act/ Rules (December 2014).

6.7.1.2 Non-levy of interest on belated payment of royalty

Audit test checked the registers of royalty and return filed by 18 lessees in the office of MO Una between March and April 2014 and noticed that royalty of ₹60.87 lakh for the period of October 2010 to March 2013 was deposited late by these lessees. The delay in deposit of royalty ranged between six and 311 days. Interest of ₹3.61 lakh on delayed payment of royalty though recoverable from the lessees was not charged by the department.

On this being pointed out (between March 2014 and April 2014), MO Una stated that notices would be issued to the defaulters to deposit the outstanding amount of interest. Further report on recovery and reply has not been received (December 2014).

6.7.1.3 Dead rent and interest

As per HPMM (Concession) Revised Rules 1971, dead rent of the leased area or royalty due from the mineral extracted from the leased area whichever is higher shall be payable by a lessee.

Audit test checked the records of six MOs¹¹ between March 2014 and June 2014 and noticed that 22 lessees¹² with leased area of 62.8885 *hectare* did not extract any produce during 2010-11 to 2012-13. Therefore, these lessees were liable to pay dead rent of ₹21.79 lakh. Out of this, they had paid only ₹5.74 lakh. Balance amount of dead rent of ₹16.05 lakh had been neither demanded by the

⁹ Crushed stone

¹⁰ MOs Bilaspur and Kangra at Dharamshala

¹¹ MOs Bilaspur, Kangra at Dharamshala, Kullu, Shimla, Solan and Una

¹² MOs Bilaspur: One lessee: ₹6,000, Kangra at Dharamshala: eight lessees: ₹6.67 lakh, Kullu: three lessees: ₹44,000, Shimla: three lessees: ₹3.92 lakh, Solan: five lessees: ₹13.81 lakh and Una: two lessees: ₹4.10 lakh

department nor paid by the lessees. Besides, interest of ₹12.95 lakh at the prescribed rate was also leviable.

On this being pointed out (between March 2014 and June 2014), MOs stated that notices would be issued to the defaulters to deposit the outstanding amount of interest. Further report on recovery and reply has not been received (December 2014).

6.7.1.4 Surface rent and interest

Rule 21.1 (i) (d) of the HPMM (Concession) Revised Rules, 1971, provides that where a mining lease granted or renewed under these rules subsists or a new lease is granted or renewed, the lessee shall have to pay in addition to the royalty and dead rent, the surface rent at the rate of ₹200 per acre.

Audit test checked the records of five MOs¹³ between March 2014 and June 2014 and noticed that mining lease for leased area of 953.35 acres had been granted/ renewed in respect of 82 lessees for the years between 2009-10 and 2012-13. Therefore, these lessees were liable to pay the surface rent at the prescribed rates amounting to ₹3.02 lakh¹⁴ besides, interest of ₹1.69 lakh was also leviable which was neither paid by the lessees nor demanded by the Department. This resulted in non-realisation of Government revenue to that extent.

6.7.2 Non-forfeiture of security deposits of minor minerals

Rule 33 of the HPMM (Concession) Revised Rules, 1971, provides that when a bid is confirmed or a tender is accepted, the bidder/ tenderer shall execute a deed in Form 'K'. The execution of the deed shall be made within three months from the date of communication of acceptance of bid or tender to the bidder/ tenderer and if the contractor/ tenderer is at fault, the orders accepting the bid/ tender shall be deemed to have been revoked and the amounts paid under Rules 30 (2) (iv) and 31 (3) of Act *ibid*, the contract may be terminated and amount paid as security deposits shall be forfeited to the Government.

Audit test checked the records of MO Kangra at Dharamshala in June 2014 and noticed that contracts/ tenders had been awarded to seven contractors/ tenderers for the years 2012-13 to 2014-15. These contractors did not pay the prescribed fixed instalments of contract money on due dates. However, the Department had terminated their contracts between July 2012 and July 2013 but the amount paid as security deposits of ₹4.90 lakh had not been forfeited to the Government. This resulted in depriving the State Government revenue of ₹4.90 lakh.

6.7.3 Non-finalising of offence cases of illegal mining

Section 4 (1) read with 23 C (1) of MMDR Act, 1957 provides that no person shall undertake any reconnaissance, prospecting or mining operation in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting license or as the case may be, a

¹³ MOs Kangra at Dharamshala, Kullu, Shimla, Sirmour at Nahan and Una

¹⁴ MOs Kangra at Dharamshala: 19 cases: ₹1.44 lakh, Kullu: 28 cases: ₹0.66 lakh, Shimla: 10 cases: ₹0.35 lakh, Sirmour at Nahan: 16 cases: ₹1.36 lakh and Una: nine cases: ₹0.90 lakh

mining lease, granted under this Act. Section 23 C (1) further provides that the State Government may, by notification in the Official Gazette, make rule for preventing illegal mining, transportation and storage of minerals and for the purpose connected therewith.

Audit collected the information from the office of the Director (Industries) in June 2014 and noticed that the MOs had conducted 6,973 raids/ inspection on illegal mining operation and detected 4,823 cases of illegal mining during 2010-13. Out of these cases, 2,961 cases had been compounded and fine of ₹1.53 crore imposed and recovered by the Department. Audit further noticed that out of remaining 1,862 cases of illegal mining, 1,214 cases were filed in the Court out of which 775 cases had been decided by imposing a fine of ₹12.99 lakh by the Court. The department was unaware about the action taken by the concerned MOs in remaining 648 cases as there was nothing on the record to indicate action taken in respect of these cases. The chance of recovery of dues on account of penalty, royalty or fine etc. was becoming bleak with the passage of time in these cases.

On this being pointed out (June 2014), the department intimated in July 2014 that information in respect of pending 648 cases was being sought from the concerned MOs and audit would be apprised accordingly.

6.7.4 Position of arrears of Minor Minerals

Section 52 of the HPMM (Concession) Revised Rules, 1971 provides that any rent, royalty, fee, contract money or other sum due to the Government under these rules or under the terms and conditions of any mining lease or contract, on a certificate in Form-‘L’ of such officer as may be specified by the Government in this behalf by general or special orders, shall be recovered in the same manner as arrears of Land Revenue.

Audit scrutinised the information collected from the Director (Industries) and seven MOs between March 2014 and June 2014 and noticed that an amount of ₹73.96 lakh was pending for collection for the period 2004-05 to 2012-13. Age wise analysis of outstanding amount was as under:

Particulars	₹ in lakh							
	More than 10 years		More than five years but less than 10 years		Less than five years		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Amount pending for recovery as arrears of land revenue	40	37.32	01	2.36	--	--	41	39.68
Arrears pending in Courts/ for write off	--	--	--	--	--	--	--	--
Arrears pending at Departmental level	30	8.41	05	4.96	18	20.91	53	34.28
Total	70	45.73	06	7.32	18	20.91	94	73.96

Source: The Departmental figures.

Out of 94 cases, 41 cases involving an amount of ₹39.68 lakh were referred to the Collector to recover the amount as ALR. The recoveries of ₹34.28 lakh involving in remaining 53 cases were neither made by the Department nor were the cases referred to the Collector under ALR.

Thus, there was non/ short recovery of revenue of ₹55.73 lakh due to under assessment of extraction of minerals, application of incorrect rate of royalty, dead rent, surface rent and non-levy of interest. Even security deposits of the contractors were not forfeited for non-payment of instalments of contract money. 1,214 offence cases, out of 1,862 cases of illegal mining detected during the period of 2011-13 were still pending.

The above points were reported to the Government/ Department (July 2014), their reply is awaited (December 2014).

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