

Chapter-VI
Other Tax and Non Tax Receipts

CHAPTER - VI Other Tax and Non Tax Receipts

6.1 Tax Administration

This chapter consists of receipts from Land Revenue, State Lotteries, Entertainment and Luxury Tax, Forest and Mining Receipts etc. The tax administration is governed by Acts and Rules framed separately for each Department.

6.2 Results of audit

Test check of records relating to Land Revenue, Entertainment and Luxury Tax, State Lotteries, Forest and Mining etc. during 2013-14 showed irregularities involving ₹ 190.46 crore in 2,210 cases, which fall under the following categories as per details mentioned in **Table 6.1**:

Table 6.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A : Other Tax Receipts			
(i) Land Revenue			
1.	Non/short recovery of chowkidara tax	24	1.78
2.	Non recovery of arrears declared as land revenue	43	4.91
3.	Loss to the Government Exchequer	13	0.14
4.	Non recovery of rent from unauthorised occupants	9	0.13
5.	Non recovery of service charges	65	0.37
6.	Non recovery of Abiana/Tawan	22	5.85
TOTAL		176	13.18
(ii) Other taxes and duties on commodities and services			
1.	Non/short levy of entertainment and luxury tax	173	3.04
2.	Non/short levy of interest and penalty	110	0.05
TOTAL		283	3.09
B : Non- tax Receipts (State Lotteries)			
1.	Loss of revenue due to ill planning in framing policy of fortnightly lottery scheme	1	0.54
2.	Loss of revenue to State Exchequer due to non conducting of monthly lottery draw	1	0.14
TOTAL		2	0.68
C : Forest Receipts			
1.	Non recovery of Government dues	1,349	6.08
2.	Outstanding amount of royalty/interest	15	68.16
3.	Non deposit of revenue into Government account	292	88.80
4.	Loss of revenue	92	3.27
TOTAL		1,748	166.31

Sl. No.	Categories	No. of cases	Amount
	D: Mining Receipts		
1.	Receipts from Minor Minerals	1	7.20
	TOTAL	1	7.20
	GRAND TOTAL	2,210	190.46

In 2013-14, the Entertainment and Luxury Tax Department informed audit that they have accepted, by issuing demand notices in 27 cases for recovery amounting to ₹ 1.18 crore for earlier years. The Department further informed in 2013-14 that they had recovered ₹ 1.03 crore in 19 cases pertaining to the earlier years. In 2013-14, Forest and Wildlife Department informed audit that they have accepted and recovered, an amount of ₹ 5.30 lakh in 386 cases pertaining to the earlier years.

A few illustrative cases involving ₹ 9.54 crore are discussed in succeeding paragraphs.

6.3 Short realisation of chowkidara tax

Rule 4.1 of Punjab Financial Rules (PFR) provides that it is the duty of the Revenue or the Administrative Department concerned, to see that dues of Government are correctly and promptly assessed, collected and paid into the treasury. As per Rule 33 of the Punjab Chowkidar Rules 1876, amended from time to time, the remuneration to the village chowkidar (watchman) was payable @ ₹ 800 per month w.e.f. 1 June 2010 and as per Rule 35, the amount payable by any village for the remuneration of watchman shall be levied and collected from all occupants or owners of houses of general category in the village equally with due regard to the views and opinions of the headman of the village. The Patwari shall prepare an assessment of the chowkidara tax and after proper attestation by the Revenue Officer concerned send it to the Deputy Commissioner (DC) for approval. Further, Rule 41 provides that if such chowkidara collections are not deposited, the Tehsildar shall, subject to orders of the DC take measures to enforce payment of the remuneration due and for this purpose, the DC and Tehsildar shall have the powers respectively as they now possess for the recovery of land revenue due to Government.

Audit noticed (January to March 2014) that:

- a) in three Tehsildars¹, against the approved demand of chowkidara tax of ₹ 43.87 lakh recoverable from the villagers of General category for the period 2010-13, only ₹ 5.09 lakh was recovered by the Department leaving a balance of ₹ 38.78 lakh.

¹ Gurdaspur, Jalandhar-I and Jalandhar-II.

- b) in Tehsildar, Fatehgarh Sahib, demand of chowkidara tax of ₹ 9.36 lakh was approved instead of actual demand of ₹ 11.90 lakh for the year 2010-11, out of which only ₹ 0.24 lakh were recovered leaving a balance of ₹ 11.66 lakh.
- c) in District Revenue Officer, Shahid Bhagat Singh Nagar, demand of chowkidara tax of ₹ 8.39 lakh was approved instead of actual demand of ₹ 11.19 lakh for the year 2010-13, out of which only ₹ 4.20 lakh were recovered leaving a balance of ₹ 6.99 lakh.
- d) in Tehsildars, Ludhiana (West) and Fatehgarh Sahib, no demand was raised for the period of 2010-13 and 2011-13 against salaries amounting to ₹ 18.84 lakh and ₹ 16.61 lakh paid to chowkidars of Ludhiana (West) and Fatehgarh Sahib respectively.

Short realisation of chowkidara tax of ₹ 57.43 lakh from the villagers resulted in not only loss of revenue but also burdened the State exchequer for making payment of remuneration to the headmen who were responsible for the collection of chowkidara tax.

The matter was brought to the notice of the Government/Department (May 2014); their replies were awaited (November 2014).

6.4 Non accountal of mutation fee

Rule 2.4 of PFR Vol-I provides that while signing the cash book, the head of the office should see that the departmental receipts collected during the day, the utilisation of which towards expenditure is strictly prohibited under the Punjab Treasury Rules, are credited into the treasury on the same day or next working day at the earliest and that there should be a corresponding entry on the payment side of the cash book.

Audit noticed (February 2014) from the mutation fee register of Tehsildar, Samrala that against mutation fee collection of ₹ 6.05 lakh by Tehsildars and Naib Tehsildars during April 2010 to September 2013, only ₹ 4.54 lakh was deposited in the treasury leaving balance of ₹ 1.51 lakh which was neither accounted for in Daily Collection Registers nor deposited into treasury. It resulted in non accountal of mutation fee of ₹ 1.51 lakh lying with the concerned Tehsildar/Naib Tehsildar. Mis-appropriation of money could not be ruled out in audit.

The matter was brought to the notice of the Government/Department (May 2014); their replies were awaited (November 2014).

6.5 Non eviction of Gram Sabha/Gram Panchayat land from illegal/unauthorised occupants

Punjab Government laid down (September 2007) a policy for disposal of rural/urban evacuee land² at the rate of ₹ 15,000 per acre for general category

² land meant for common use of villagers.

and ₹ 12,000 per acre for schedule caste and backward categories. The unauthorised occupants were to apply to the concerned Tehsildar within a period of three months for the transfer of land in their name as per terms and conditions of the policy. Hon'ble Supreme Court of India declared (January 2011) this policy invalid and directed the State Government to prepare a scheme for eviction of illegal/unauthorised occupants of land meant for common purposes of villagers. Further, State Government forwarded (April 2011) a copy of the above decision of the Apex Court to all the District Collectors for compliance.

Audit noticed (March 2014) from the records of Tehsildars Jalandhar-I and Jalandhar-II for the year 2013-14 that an area measuring 383 Acre 6 Kanal of common land pertaining to the Gram Sabha/Gram Panchayat etc. was occupied illegally/unauthorisedly. Despite the directions of the Apex Court and the State Government, no action was initiated by the revenue authorities to ensure eviction of common land from encroachers in Jalandhar district even after the lapse of more than three years. The minimum value of the encroached land was ₹ 36.46 crore (calculated at the minimum prevailing Collector rates of agricultural land for the year 2012-13 in Jalandhar II).

Non eviction of illegal/unauthorised occupants of Gram Sabha/Gram Panchayat land by framing a scheme/policy as directed by the Apex Court was not only violative of the orders of the Apex Court but also rendered undue advantage to the encroachers.

Tehsildar, Jalandhar-I in his reply stated (June 2014) that no scheme has been prepared to evacuate the land.

The matter was brought to the notice of the Government/Department (June 2014); their replies were awaited (November 2014).

6.6 Non - realisation of entertainment tax from the cinema proprietors

As per provisions contained in Section 7 (1) and (2) of the Punjab Entertainment Tax (Cinematograph Shows) Rules 1954, every proprietor shall be required to furnish a return in the prescribed form and manner in respect of his cinema house, every fortnight within a period of seven days of the close of the fortnight. Before any proprietor furnishes the return as required under Sub-Section (1), he shall deposit into the concerned treasury, the full amount of tax payable by him, for the period covered by the return.

A proposal was made by the Punjab Government in the annual budget for the year 2003-04 that if the entertainment tax is deposited in lump sum, a concession of 33 *per cent* will be given to cinema proprietors in entertainment tax. The cinema proprietors accordingly started depositing entertainment tax availing rebate of 33 *per cent* whereas no notification was issued by the Punjab Government. A demand was raised by the Department (September 2004) for depositing the remaining 33 *per cent* tax. Cinema

proprietors filed writ petition in 2005 in Punjab and Haryana High Court against the demand raised by the Department which was dismissed (7 May 2013) by the Hon'ble Court. Accordingly, the cinema proprietors were required to deposit 33 *per cent* of remaining entertainment tax which was allegedly withheld by the cinema proprietors for the period of 2003-04 to 2007-08. The Entertainment Tax was, however, abolished by Punjab Government in April 2008.

Audit noticed (February 2014) from the records of Assistant Excise and Taxation Commissioner, Entertainment (AETC) Ludhiana-1 that 12 cinema proprietors did not deposit the allegedly withheld entertainment tax of ₹ 1.75 crore for the period of 2003-04 to 2007-08 despite dismissal of their writ petition by the Hon'ble Court mentioned *ibid*. Even after the lapse of more than one year of the decision of Hon'ble Court as well as issuance of directions (September 2013) by Commissioner, Excise and Taxation, Punjab, no action was initiated by AETC to recover the balance amount of entertainment tax from the defaulters. Non realisation of entertainment tax not only deprived of the State exchequer to earn revenue of ₹ 1.75 crore but also extended undue benefit to the defaulters to retain State revenue for no reasons. Besides, penalty under Section 14 (1) may also be levied after giving a reasonable opportunity of being heard to the defaulters.

The matter was brought to the notice of the Government/Department (April 2014); their replies were awaited (November 2014).

6.7 Receipts from Minor Minerals

Receipts from Minor Minerals consist of application fee, licence fee, permit fee, royalty, fines and penalties, interest on delayed payment(s) etc.

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

Management of mineral resources is the responsibility of both the Central Government and the State Governments in terms of Entry 54 of the Union List (List I) and Entry 23 of the State List (List II) of the Seventh Schedule of the Constitution of India. So long as the Parliament does not make any law in exercise of its powers, the powers of the State Legislature in Entry 23 would subsist.

Scrutiny of records of six³ out of 18⁴ District Mining Offices pertaining to the years 2008-13 were selected, which showed cases of short payment of

³ Amritsar, Hoshiarpur, Ludhiana, Mansa, Mohali/Ropar and Patiala.

⁴ Amritsar, Batala, Bathinda, Faridkot, Ferozepur, Hoshiarpur, Jalandhar, Kapurthala, Ludhiana, Mansa, Mandi Gobindgarh, Malerkotla/Sangrur/Barnala, Moga, Mohali/Ropar, Muktsar/Fazilka, Pathankot, Patiala and Shahid Bhagat Singh Nagar.

royalty, non-levy of penalty, interest, loss of revenue due to non-observance of the provisions of the Act/Rules as discussed in the following paragraphs:

6.7.1 Non recovery of interest on royalty from Bricks Kiln Owners

As per Clause 11 of Form 'K' prescribed under Rule 24 of Punjab Minor Mineral Concession (First Amendment) Rules, 2008 notified by Government of Punjab, Department of Industries and Commerce (March 2008), half yearly installment of royalty by the Brick Kilns Owners (BKO) shall be paid in advance. In case the advance half yearly royalty is not paid on the date specified, the permit holder shall be liable to pay an interest at the rate of 18 *per cent* per annum on the due amount, till the amount is paid. Further, as per Section 12 of Mines and Minerals (Development & Regulation) Act 1957, the State Government shall cause to be maintained the registers of permits, licenses etc.

Audit noticed (between May and June 2014) from the records of four Mining Offices⁵ for the period 2008-09 to 2012-13 that 718 BKOs had deposited the royalty amount after a delay ranging between one and 2,185 days for which interest at the rate of 18 *per cent* per annum was required to be levied and recovered from the BKOs on delayed payments as per rules *ibid*. However, the Department had not levied the same. This resulted in non-recovery of interest amounting to ₹ 1.02 crore.

In the office of the Mining Officer, Mohali/Ropar records/register in respect of BKOs for the period 2008-13 were not maintained. In the absence of proper records pending royalty and interest on delayed payments could not be worked out.

6.7.2 Non-realisation of royalty for excess extraction of Sand/Gravel

As per Rule 28 (2) of the Punjab Minor Minerals Concession Rules 1964 (PMMC Rules), no contractor shall remove any quantity of minor minerals in excess of the quantity worked out on the basis of contract with respect to rates of royalty shown in the first schedule.

Audit noticed (June 2014) from the records of two Mining Offices⁶ that contract for 113 quarries was initially granted to six contractors for three years w.e.f. 16 June 2006 which was subsequently extended upto 15 May 2010. Scrutiny of returns (Form 'N') showed that the contractors paid royalty for extraction of 19.14 lakh metric ton (MT) of sand/gravel, whereas they actually extracted 23.70 lakh MT resulted in extra extraction of 4.56 lakh MT of sand/gravel during the extended period of the contract in contravention to the Rules *ibid*. This resulted in non-realisation of revenue amounting to ₹ 1.15 crore as detailed in the **Table 6.2**:

⁵ Amritsar, Hoshiarpur, Ludhiana and Mansa.

⁶ Amritsar and Mohali/Ropar.

Table 6.2

No. of contractors/quarries	Name of district	Period	Actual quantity of sand/gravel extracted (lakh MT)	Allotted quantity of sand/gravel to be extracted (lakh MT)	Excess extraction of sand/gravel (lakh MT)	Rate of sand/gravel (₹ per MT)	Loss of revenue due to excess extraction (₹ in lakh)
1/73	Ropar	16.6.06 to 15.5.10	14.77	11.13	3.64	24.00	87.36
4/14	Amritsar	1.4.09 to 15.5.10	6.70	6.24	0.46	30.00	13.80
1/26	Mohali	1.2.10 to 15.5.10	2.23	1.77	0.46	30.00	13.80
6/113		Total	23.70	19.14	4.56		114.96

6.7.3 Short levy of royalty due to application of pre-revised rates

Government of Punjab, Department of Industries and Commerce vide auction notice dated 11 April 2005 (further revised on 1 June 2006), auctioned 26 quarries in Mohali district and 73 quarries in Ropar district for extraction of sand/gravel for the period of three years i.e. 16 June 2006 to 15 June 2009. As per condition No.1 of the auction notice and further clause-13 of the contracts, the contracts were subject to all rules and regulations which may from time to time be issued by the Government regulating the working of quarries. Further, Punjab Government vide notification (April 2008) revised the rates of royalty of sand w.e.f. 1 April 2008 from ₹ 20.00 to ₹ 30.00 per MT and gravel from ₹ 16.00 to ₹ 24.00 per MT.

Audit noticed (June 2014) from the record of the Mining Office, Mohali/Ropar that two contracts for 26 quarries in Mohali and 73 quarries in Ropar for extraction of sand/gravel were granted to a contractor initially for the period of three years from 16 June 2006 to 15 June 2009 for the royalty amounting to ₹ 1.30 crore and ₹ 3.40 crore per annum respectively. The royalty was worked out on the basis of minimum rates given in the Schedule-I of Punjab Minor Mineral Concession Rules, 1964. The contract was further extended upto 15 May 2010. However, the rates of royalty on sand and gravel in the said contracts were not revised as per condition 1 of the auction notice and clause-13 of the contract. This resulted into short levy of royalty amounting to ₹ 4.99 crore.

6.7.4 Non recovery of royalty from Brick Kiln Owners

As per Rule 3 (Clause 6) of Punjab Minor Mineral Concession (Second Amendment) Rules, 2008, the royalty on bricks manufactured by BKO's shall be paid at the rates prescribed in First Schedule.

Audit noticed (June 2014) from the registers of BKO's in Mining Office, Hoshiarpur that royalty of ₹ 3.72 lakh for the year 2012-13 was due from the 25 BKO's. No demand notice was issued by the Mining Officer to the concerned BKO's for outstanding royalty.

6.7.5 Non-auction of quarries

As per Department of Industries and Commerce, Punjab auction notice (June 2008), 66 quarries were put for auction held on 10 July 2008 in Hoshiarpur district.

Audit noticed (June 2014) from record of the Mining Office, Hoshiarpur that out of 66 quarries, 44 quarries were allotted on contract. The Mining Officer, Hoshiarpur sent a proposal (August 2008) to the Directorate to conduct the auction of 16 quarries excluding six pertaining to forest area. Despite sending this proposal, no auction was conducted by the Directorate in respect of 16 quarries.

6.7.6 Non furnishing of returns by the contractors

As per Rule 54-B of PMMC Rules, every assessee shall furnish a monthly return in Form 'N' showing the production and disposal of minor minerals during the month latest by 10th of the following month. Further, as per condition 16 of the Form 'L' (Agreement) prescribed under Rule 33 of PMMC Rules, in case of default in due observance of terms and conditions of the contract, the contract may be terminated by the Government and forfeiture of security deposit by the contractor.

Audit noticed (June 2014) from the contract documents in the Mining Office, Mohali/Ropar that no return was furnished by the contractors in respect of 55 quarries in Mohali and 63 quarries in Ropar auctioned on 16 July 2010 in contravention to the rule mentioned *ibid*. In the absence of returns, possibility of excess extraction of minor minerals by the contractors could not be ruled out which might have caused revenue loss to the Government.

6.7.7 Non reconciliation of remittance made into treasury

Rule 2.2(v) of PFR Vol. 1 read with para 12.3 (3) of the Punjab Budget Manual provides that at the end of every month, the head of office should prepare a consolidated list of all remittances made into treasury during the month in prescribed form and forward the same to the treasury officer for his signature in token of confirmation. The Treasury Officer would compare the list with the records maintained by him and return the verified list by 15th of the following month duly signed by him in token of acceptance or pointing out discrepancies, if any.

Audit noticed (May 2014 and June 2014) in the four mining offices⁷ for the period 2008-09 to 2012-13 that an amount of ₹ 80.61 crore was deposited into the treasury on account of royalties etc. under the head "0853-Non Ferrous Metallurgical Industries" for which no reconciliation was made with the treasury. Non reconciliation of deposits may lead to misappropriation/fraud/embezzlement of Government money which may remain undetected.

⁷ Hoshiarpur (₹ 3.88 crore), Ludhiana (₹ 24.89 crore), Mohali/Ropar (₹ 51.54 crore) and Patiala (₹ 0.30 crore).

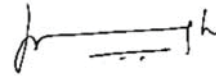
6.7.8 Internal Audit

Internal audit is a vital component of the internal control mechanism and is generally defined as control of all controls. The Department informed that no internal audit system existed in the Department. This indicated that no mechanism existed to plug loopholes and take timely remedial measures.

Interest on delayed payment of royalty by the Brick Kilns Owners were not levied and recovered by the Department. Royalty for excess extraction of Sand/Gravel was not realized from the contractors. No returns were furnished by the contractors and in the absence of returns, possibility of excess extraction of minor minerals could not be ruled out.

The above points were reported to the Government/Department (July 2014); their replies were awaited (November 2014).

Chandigarh :
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