CHAPTER-VI
MINING RECEIPTS

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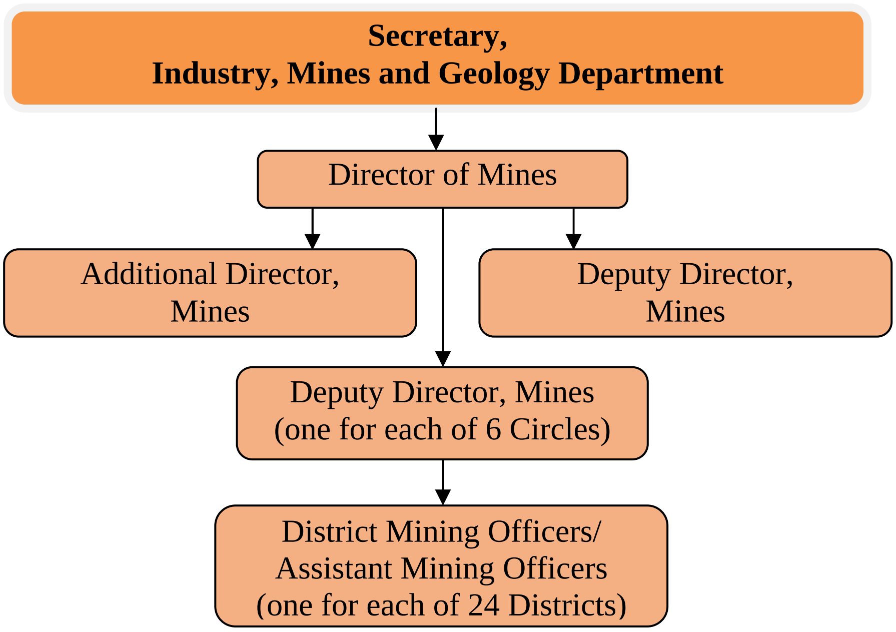
6.1 Tax administration

The levy and collection of royalty in the State is governed by the Mines and Minerals (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Jharkhand Minor Mineral Concession Rules, 2004.

At the Government level, the Secretary, Industry, Mines and Geology Department and at the directorate level, the Director of Mines is responsible for administration of the Acts and Rules. The Director of Mines is assisted by an Additional Director of Mines (ADM) and Deputy Director of Mines (DDM) at the headquarters' level. The State is divided into six circles[1], each under the charge of a DDM. The circles are further divided into 24 district mining offices[2], each under the charge of a District Mining Officer (DMO)/Assistant Mining Officer (AMO). The DMOs/AMOs are responsible for levy and collection of royalty and other mining dues. They are assisted by Mining Inspectors (MIs). DMOs and MIs are authorised to inspect the lease hold areas and review production and dispatch of minerals.

The organisational chart of the department is as under:



6.2 Results of audit

We planned for test check of records of 14 annual units and four biennial units out of the total 51 units of Mines and Geology Department during 2015-16

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1 Chaibasa, Daltonganj, Dhanbad, Dumka, Hazaribag and Ranchi.

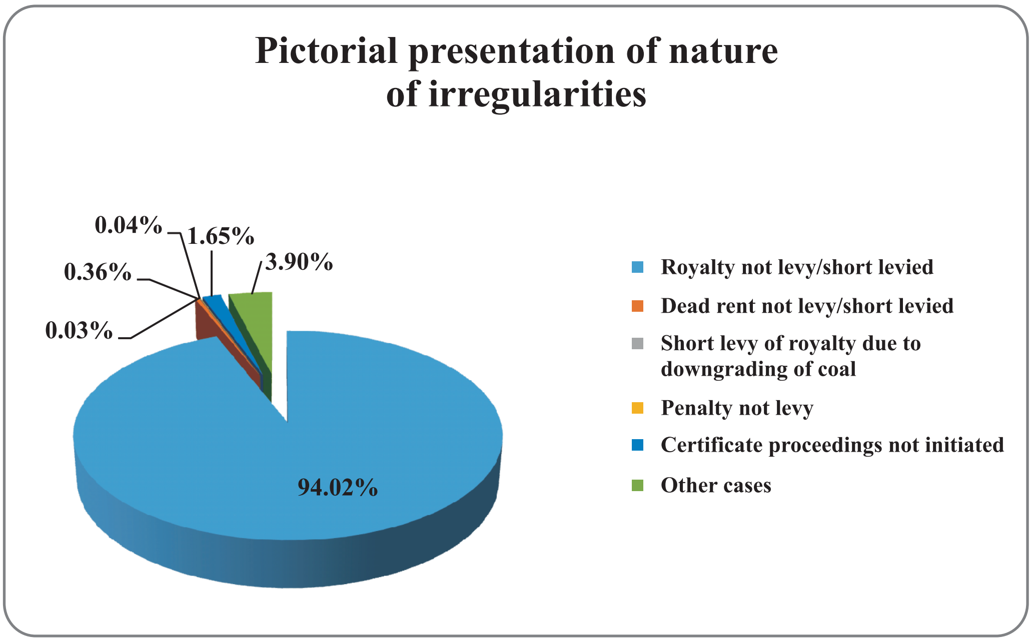
2 Bokaro, Chatra, Chaibasa, Daltonganj, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Ramgarh, Ranchi, Sahebganj, Saraikela-Kharsawan and Simdega.

and test checked 17[3] out of 18 units planned, which collected revenue of ₹ 3,205.04 crore relating to 'Mining Receipts'. Our Audit revealed royalty, dead rent, penalty not levied/short levied and other irregularities involving ₹ 753.16 crore in 352 cases as mentioned in the **Table-6.1**.

Table-6.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Royalty not levied/short levied	22	708.09
2	Dead rent not levied/short levied	48	2.72
3	Short levy of royalty due to downgrading of coal	3	0.31
4	Penalty not levy	35	0.26
5	Certificate proceedings not initiated	36	12.41
6	Other cases	208	29.37
	Total	**352**	**753.16**



During the year, the Department accepted under-assessment and other deficiencies of ₹ 1,020.11 crore in 178 cases, out of which ₹ 674.25 crore in 128 cases pointed out by us in 2015-16 and rest in earlier years.

The Department recovered ₹ 352.96 crore in 12 cases including ₹ 6.76 crore involved in four cases, pointed out in draft paragraph by us during 2015-16.

In this chapter a few illustrative cases having recoverable financial implication of ₹ 593.67 crore have been discussed.

[3] Offices of DMO, Bokaro, Chatra, Chaibasa, Deoghar, Dhanbad, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Khunti, Pakur, Ramgarh, Ranchi and Saraikela-Kharsawan, Secretary of Mines and Director of Mines, Ranchi.

6.3 Provisions of Acts/Rules not complied with

The Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 and the Minerals Concession (MC) Rules, 1960 provide for payment of royalty on the minerals removed and consumed from the leased area at the rates prescribed, within the due dates.

The Mines and Geology Department did not observe the provisions of the Acts/Rules with regard to application of correct rate of royalty, scrutiny and verification of monthly returns etc. in the cases mentioned in paragraphs 6.4 to 6.10 which resulted in not/short levy of ₹593.67 crore.

6.4 Short levy of royalty on washed coal[4]

Short levy of royalty due to undervaluation of basic sale value of middling, tailing and reject coal in the returns submitted by a colliery.

Under the provisions of Section 9 of the MMDR Act, 1957 the holder of a mining lease is required to pay royalty in respect of any mineral removed from or consumed in the leased area at the rate for the time being specified in the second schedule in respect of that mineral. Rule 64 B (1) of the MC Rules, 1960 provides that in case processing of run of mine is carried out within the leased area, then royalty shall be chargeable on the processed mineral removed from the leased area. The Central Government prescribed formula for rate of royalty = a + bp, where 'a' is a fixed component and 'bp' = 5 *per* cent of price of coal, as reflected in the invoice, excluding taxes, levies and other charges. This rate of royalty was revised to 14 *per cent ad valorem* on price of coal with effect from 10 May 2012. Further, Rule 64A of the MC Rules, 1960 provides that the State Government is authorised to charge simple interest at the rate of 24 *per cent* per annum on any rent, royalty, fee or other sum due to Government, from the sixtieth day of the expiry of the date fixed for payment thereof. The DMO/AMO is required to check periodical monthly returns with demand register and he is responsible for realisation of rent and royalty.

[4] The products obtained after processing of run-of-mine coal in a coal handling preparation plant/coal washery.

Coal washery

We cross-verified (March 2016) in DMO, Ramgarh, the monthly returns for the period from 2008-09 to 2014-15 of West Bokaro Colliery of M/s Tata Steel with the Trading Account/ JVAT 409 submitted by the colliery in Commercial Taxes Department and noticed that 220.98 lakh MT of middling, tailings and rejects were dispatched on which royalty of ₹ 324.64 crore was levied instead of leviable royalty of ₹ 602.04 crore computed on the basis of basic sale value of ₹ 5,189.59 crore derived from the sale value reflected in the Trading Account/JVAT 409 after deducting all the duties and taxes applicable from time to time. Thus, due to failure of the DMO to detect undervaluation of basic sale value and levy the royalty on the basis of actual basic sale value, the DMO gave undue commercial favour to the lessee amounting to ₹ 277.40 crore and interest thereon of ₹ 168.81crore detailed in **Table-6.2**.

Table-6.2

(₹ in crore)

Category of processed coal	Period Quantity dispatched (in lakh MT)	Basic sale value	Royalty leviable Levied	Short levy	Interest (upto March 2016)	Total
Middling	2008-15 152.65	3,175.27	384.97 171.76	213.21	123.91	337.12
Tailings	2008-15 53.84	1,952.38	208.40 144.80	63.60	44.76	108.36
Rejects	2014-15 14.49	61.94	8.67 8.08	0.59	0.14	0.73
Total	**220.98**	**5,189.59**	**602.04** **324.64**	**277.40**	**168.81**	**446.21**

After we pointed out the cases (March 2016), the AMO intimated (August 2016) that demand for ₹ 446.21 crore has been raised in June 2016. Further, realisation of demand has not been intimated (October 2016).

We reported the matter to the Government in May 2016; their reply has not been received (October 2016).

6.5 Short levy of royalty due to application of incorrect rate

Provisions of the Act/Rules and notifications issued by the Ministry of Coal, Government of India with regard to application of rate of royalty were not observed which resulted in short levy of royalty of ₹ 143.52 crore.

Under the provisions of Section 9 of the MMDR Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, rate of royalty on coal for various grades is based on the basic pit head price of run-of-mine (ROM) coal while for feldspar, iron ore, soapstone, mica and quartz rate of royalty is based on State-wise average sale price as published by the Indian Bureau of Mines (IBM), which shall be the price for the computation of royalty in respect of mineral produced in that State under Rule 64 D of the MC Rules, 1960. The Rule further provides that if for a particular mineral, information for a State is not published by IBM then All India information for the mineral shall be referred.

Coal mines of Jharkhand

6.5.1 We test checked (between November 2015 and March 2016) the monthly returns of 58 leases of coal in three Mining Offices[5] and noticed that three lessees had dispatched 93.91 lakh MT of coal during the period from 2007-08 to 2008-09 and during 2014-15. On these dispatches royalty of ₹ 173.41 crore was levied instead of ₹ 316.72 crore that should have been levied based on basic pit head price of ROM coal notified by the Coal India Limited (CIL). The DMOs/AMOs failed to compute royalty on the basis of above provisions and gave undue benefit to the lessees resulting in short levy of royalty of ₹ 143.31 crore as mentioned in the **Table-6.3**.

Table-6.3

(₹ in lakh)

Sl. No.	Name of the office No. of leases	Name of the mineral Period	Quantity dispatched (In lakh MT)	Royalty leviable Royalty levied	Short levied	Remarks
1	Dhanbad 1	Coal 2014-15	0.31	57.76 53.15	4.61	Rate of royalty was not calculated on the

[5] Dhanbad, Pakur and Ramgarh.

Table-6.3

(₹ in lakh)

Sl. No.	Name of the office No. of leases	Name of the mineral Period	Quantity dispatched (In lakh MT)	Royalty leviable Royalty levied	Short levied	Remarks
2	Pakur 1	Coal 2014-15	39.70	7,873.58 5,402.49	2,471.09	basis of basic pit head price of ROM coal as notified by the Coal India Ltd.
3	Ramgarh 1	Coal 2007-08, 2008-09 & 2014-15	53.90	23,740.22 11,885.23	11,854.99	
Total	**3**		**93.91**	**31,671.56** **17,340.87**	**14,330.69**	

After we pointed out the cases between November 2015 and March 2016, the AMO, Dhanbad stated (November 2015) that action would be taken after verification whereas, AMOs, Pakur and Ramgarh intimated (August 2016) that demand for ₹ 143.26 crore has been raised between April and June 2016. Further realisation of demand has not been intimated (October 2016).

6.5.2 We test checked (September 2015) the monthly returns of seven leases of major minerals in District Mining Office, Giridih and noticed that three lessees had dispatched 9,710 MT of different minerals during 2013-14, on which royalty of ₹ 4.52 lakh was levied instead of ₹ 26.28 lakh leviable on the basis of grade wise monthly average sale price published by the IBM. The DMO gave undue benefit and did not enforce the provisions of the Rules for application of correct rate. This resulted in short levy of royalty of ₹ 21.76 lakh as mentioned in the **Table-6.4**.

Table-6.4

(₹ in lakh)

Sl. No.	Name of the mineral No. of leases	Period	Quantity dispatched (In MT)	Royalty leviable Royalty levied	Short levied
1	Felspar 1	2013-14	1,390	0.90 0.53	0.37
2	Mica 1	2013-14	2,035	21.66 1.63	20.03
3	Quartz 2	2013-14	4,985	2.64 1.87	0.77
4	Soapstone 1	2013-14	1,300	1.08 0.49	0.59
Total			**9,710**	**26.28** **4.52**	**21.76**

After we pointed out the cases in September 2015, the AMO stated (September 2015) that action would be taken after verification of the matter. Further reply has not been received (October 2016).

We reported the matter to the Government in May 2016; their reply has not been received (October 2016).

6.6 Dead rent not levied/short levied

Dead rent of ₹ 2.42 crore was not levied/short levied on lease holders as per the provisions of the MMDR Act, 1957.

Under the provisions of Section 9A of the MMDR Act, 1957, the holder of a mining lease pay to the State Government, every year, dead rent at such rate, as may be specified, for the time being, in the Third Schedule, for all the areas included in the instrument of lease. Provided that where the holder of such mining lease becomes liable, under Section 9 of the Act, to pay royalty for the mineral removed or consumed from the leased area, he shall be liable to pay royalty or the dead rent in respect of that area, whichever is greater.

We test checked (between October 2015 and March 2016) the monthly returns of 85 lessees with Demand, Collection and Balance (DCB) Register in four Mining Offices[6] and noticed that in case of 37 leases covering an area of 3,560.608 hectares, the lessees did not extract minerals during 2008-09 to 2014-15 and were liable to pay dead rent under the provisions of the Act. The DMOs were negligent and did not exercise periodical checks of DCB Register, consequently a partial demand of dead rent of ₹ 3.29 lakh could be raised in 10 cases only instead of ₹ 2.45 crore leviable under the above provisions of the Act. This resulted in not/short levy of dead rent of ₹ 2.42 crore.

After we pointed out the cases (between October 2015 and March 2016), the DMO/AMO, Jamshedpur and Ranchi sated (March 2016) that action would be taken after verification whereas, AMOs, Chaibasa and Saraikela-Kharsawan intimated (July 2016) that demand for ₹ 26.26 lakh has been raised and ₹ 78,600 realised from two lessees in Saraikela-Kharsawan. Further reply has not been received (October 2016).

We reported the matter to the Government in May 2016; their reply has not been received (October 2016).

Similar issue featured in Paragraph No. 6.7 of Audit Report (Revenue Sector) for the year ending 31 March 2015. However, the nature of lapses/ irregularities are still persisting which shows ineffectiveness of the internal control system of the Department to prevent recurring leakage of revenue.

6.7 Short levy of royalty due to suppression of dispatch

Suppression of dispatched quantity of coal in monthly returns resulted in short levy of royalty of ₹ 1.02 crore.

Under the provisions of Section 9 of the MMDR Act, 1957, the holder of mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the

[6] Chaibasa, Jamshedpur, Ranchi and Saraikela-Kharsawan.

Second Schedule in respect of that mineral. Further, as per order issued by the Department of Mines and Geology, Government of Bihar in June 1970, the DMO/AMO is required to check the monthly returns and compare with the DCB Register.

Railway siding for dispatch of coal

We test checked (September 2015) the monthly returns of eight leases of coal at DMO, Chatra and noticed that two collieries[7] had brought forwarded opening balance between April and September 2014 as 14.65 lakh MT of G-9 coal whereas the closing balance in respective previous months was 15.20 lakh MT. Thus, the lessees had suppressed dispatch of 55,598.42 MT of G-9 coal. The DMOs were required to scrutinise the monthly returns with earlier returns *vis-a-vis* Raising and Dispatch register and Demand, Collection and Balance register, yet the same was not done. This resulted in the discrepancy remained undetected with consequent short levy of royalty of ₹ 1.02 crore.

After we pointed out the cases in September 2015, the AMO stated (September 2015) that action would be taken after verification. Further reply has not been received (October 2016).

We reported the matter to the Government in May 2016; their reply has not been received (October 2016).

6.8 Short levy of royalty due to downgrading of coal

Grades of coal shown in the monthly returns with the grades declared under the provisions of Colliery Control Rules, 2004 was not verified. This resulted in short levy of royalty of ₹ 23.73 lakh.

Section 9 of the MMDR Act, 1957 provides for payment of royalty by a lessee on the quantity of mineral removed or consumed from the leased area at the rate prescribed according to the grade of coal. Under the provision of Rule 4(2) of the Colliery Control Rules, 2004, the owner of a colliery shall declare its grade[8] and pay royalty at the rate specified.

We test checked (November 2015) the monthly returns submitted by 50 collieries with DCB Register in District Mining Office, Dhanbad and noticed that the Bharat Coking Coal Ltd. (BCCL) had declared the grade of Dhansar

[7] Piparwar and Purandadih.

[8] Coal grade refers quality of coal on the basis of Fixed Carbon, Volatile Matter, Ash and Moisture contents and/or Gross calorific value.

colliery's steam coal as G-1 and for ROM coal as G-2 for the year 2014-15. But during the year the colliery had downgraded 1.13 lakh MT of steam coal (G-1 grade) to G-2 grade in their monthly returns on which royalty of ₹ 7.70 crore was levied instead of ₹ 7.94 crore. The DMO failed in verifying the grades with those declared by the collieries and levied the royalty on the grades shown in the monthly returns. This resulted in short levy of royalty of ₹ 23.73 lakh.

After we pointed out the cases in November 2015, the AMO stated that as per grade notification the audit observation did not seem right, however, action would be taken after examination. Reply is not acceptable as the observation is based on grade of steam coal as per grade notification. Further reply has not been received (October 2016).

We reported the matter to the Government in May 2016; their reply has not been received (October 2016).

6.9 Penalty for illegal mining not levied

Penalty of ₹ 13.66 lakh for extraction of mineral after expiry of lease, as prescribed under the JMMC Rule, 2004 was not levied

Under the provisions of Rule 23(2)(e) of the Jharkhand Minor Mineral Concession Rules, 2004, if a lease renewal application of a minor mineral lease is not disposed off by the Collector within the time frame or before the expiry of the lease, it will be presumed that it is extended for next 90 days or till the date of order passed by the sanctioning authority, whichever is earlier. If the lease application is not disposed off within this extended time frame then it is assumed to be rejected. Further, Rule 54(8) provides that any person who does not have any valid mining lease/permit, if he or any agent, manager or contractor on his behalf extracts minor minerals the person shall be presumed to be a party to the illegal extraction and price of mineral shall be recovered from him.

Stone mine site

- We test checked (February and March 2016) lease files, renewal application files, demand files along with monthly returns, DCB register of 26 leases of minor minerals in District Mining Offices, Hazaribag and Pakur and noticed that renewal application of three lessees, whose lease had expired between August 2012 and November 2013 were not disposed off within the extended period of 90 days. But the ex-lessee had extracted minerals in these cases after expiry of extended period of 90 days and dispatched 2,296.51 cum[9] of stone boulder between January 2013 and April 2014 on which royalty of ₹ 1.38 lakh was levied. The DMOs failed in monitoring the lease register and demand file and levied royalty of ₹ 1.38 lakh instead of penalty of ₹ 6.97 lakh which resulted in short levy of penalty of ₹ 5.59 lakh.

- We test checked (March 2016) lease files, demand files along with monthly returns and DCB register of 31 leases of minor minerals in District Mining Offices, Gumla and Hazaribag and noticed that in two cases, the Mining Inspectors concerned after conducting physical verification reported, that 2,463.57 cubic meter of stone had been extracted from outside the lease area which was illegal. The DMOs also failed to enforce the provisions of Rules for illegal mining. Thus, penalty, equivalent to price of mineral amounting to ₹ 8.07 lakh was not levied.

After we pointed out the cases between February and March 2016, the AMOs, Gumla and Hazaribag stated (March 2016) that action would be taken after verification whereas, AMO, Pakur intimated (August 2016) that demand for ₹ 4.44 lakh has been raised which was accepted by the lessee and ₹ 1.00 lakh has been recovered and rest is assured to be paid by the lessee in installment. Further, reply has not been received (October 2016).

We reported the matter to the Government in May 2016; their reply has not been received (October 2016).

6.10 Penalty not levied

Monthly returns by the lessees of minor mineral were not submitted for which penalty of ₹ 12.33 lakh, though leviable was not levied.

Under the provisions of Rule 41(3) of Jharkhand Minor Mineral Concession (JMMC) Rules, 2004, if a lessee or a permit holder fails to submit monthly returns up to the 15th day of the following month, the lessee or the permit holder is required to pay penalty of ₹ 20 per day per return, limited to ₹ 2,500 for each return.

We test checked (March 2016) the monthly returns of 55 lessees along with Raising and Dispatch Registers and DCB Registers of minor mineral in three Mining Offices[10] and noticed that 19 lessees had not submitted 493 numbers of monthly returns for the period 2009-10 to 2014-15. However, the DMOs failed to levy penalty of ₹ 12.33 lakh under the provisions of Rules.

[9] Cubic meter.
[10] Chaibasa, Gumla and Ranchi.

After we pointed out the cases (March 2016), the AMOs, Gumla and Ranchi stated (between March and April 2016) that action would be taken after verification whereas, DMO, Chaibasa intimated (July 2016) that notice has been issued to lessees concerned. Further reply has not been received (October 2016).

We reported the matter to the Government in May 2016; their reply has not been received (October 2016).

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Ranchi
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