

CHAPTER-VI

CHAPTER VI

MINES AND MINERALS

6.1 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 Bengal Public Demands Recovery (BPDR) Act, 1913; the Cess Act, 1880; the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.

Commerce and Industries (C&I) Department, Finance Department, Land and Land Reforms (L&LR) Department, Irrigation and Waterways (I&W) 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 (s) and district level officers.

6.2 Internal audit

There was no separate Internal Audit Wing (IAW) for the units related to mining receipts. As the mining activities are mainly 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 IAW of the L&LR Department was established 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 Department has already been discussed in Paragraph No. 3.2 of this report.

6.3 Results of audit

In 2014-15, test check of the records of 15 units relating to mining receipts showed underassessment of tax and other irregularities amounting to ₹ 26.50 crore in 171 cases, which fall under the categories given in **Table 6.1**.

Table 6.1

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	73	15.34
2.	Non/short assessment/levy/realisation of royalty and cess	58	5.80
3.	Penalty for underperformance	11	3.83
4.	Short realisation of royalty due to collection made on pre-revised rate instead of revised rate	9	1.50
5.	Other cases	20	0.03
	Total	171	26.50

During the course of the year, the Department accepted underassessment and other deficiencies in 147 cases of ₹ 24.51 crore, of which 135 cases involving ₹ 22.72 crore were pointed out during the year 2014-15 and the rest in earlier years. An amount of ₹ 22.03 lakh was realised in 12 cases during the year.

A Performance Audit on “**Assessment and Collection of revenue from Minor Minerals**” having money value of ₹ 231.81 crore is discussed in the following paragraphs.

6.4 Performance Audit on “Assessment and Collection of revenue from Minor Minerals”

Highlights

- Absence of provisions in the Rules on inspection and checking of minor minerals at the place of excavation resulted in non-realisation of price of minerals worth ₹ 64.59 crore.
(Paragraph 6.4.9)
- Failure to prescribe a system of intra/inter departmental cross-verification of data resulted in non-detection of extraction of minerals and consequent non-realisation of revenue of ₹ 54.63 crore.
(Paragraph 6.4.10)
- Due to absence of related provision in the Rules, Department could not levy interest of ₹ 37.74 crore for delayed payment of mining dues.
(Paragraph 6.4.11)
- Failure to initiate proceedings by the Department even after a lapse of one to 14 years of assessments resulted in non-realisation of revenue of ₹ 7.31 crore.
(Paragraph 6.4.12)

6.4.1 Introduction

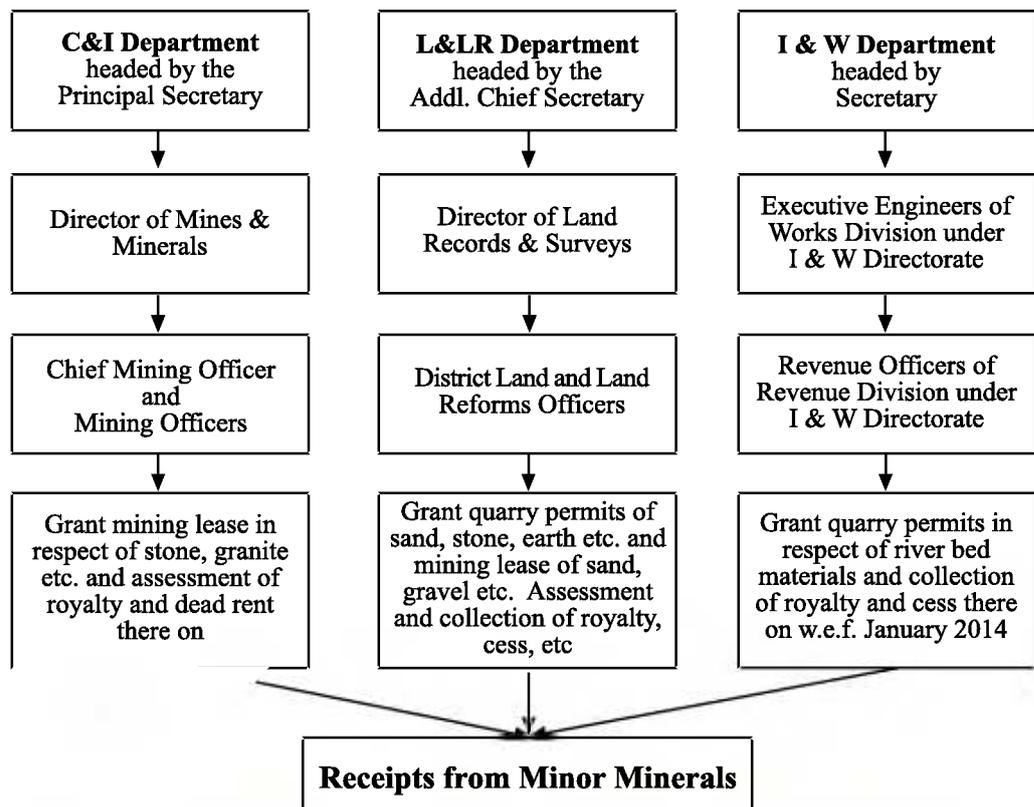
Minerals are broadly divided into two categories viz. major minerals such as coal, iron ore, china clay, fire clay, etc. and minor minerals such as stone, gravel, ordinary earth, ordinary sand, etc. Receipts from minor minerals in the State comprise royalty, dead rent, surface rent, price of minerals extracted unauthorisedly and application fee for lease/permit etc. In addition, four kinds of cess i.e. Rural Employment (RE) Cess, Road Cess, Public Works (PW) Cess and Primary Education (PE) Cess are recovered from the holders of mining leases and quarry permits. Receipts from minor minerals during the period from 2009-10 to 2013-14 amounted to ₹ 781.49 crore.

6.4.2 Organisational set up

In West Bengal, mainly two departments, Land and Land Reforms Department and Commerce and Industries Department, are entrusted with the assessment and collection of revenues from minor minerals. Land and Land Reforms (L&LR) Department grants quarry permits for sand, stone, earth etc. and mining lease of sand, gravel etc. It is also entrusted with the assessment and collection of royalty, cess, etc. Commerce and Industries (C&I) Department

grants mining lease in respect of stone, granite, etc. and assesses royalty and dead rent thereon. From January 2014, Irrigation and Waterways (I&W) Department has been entrusted with the grant of quarry permits for river-bed materials and collection of royalty and cess thereon.

All the three departments are under the administrative control of Additional Chief Secretary/Principal Secretary/Secretary and are assisted by Directors and district level officers as shown in the following organogram:



6.4.3 Audit objectives

This Performance Audit was conducted to seek an assurance on:

- adequacy of Acts/Rules and departmental instructions to safeguard the revenue of the State;
- working of existing provisions on assessment and collection procedures, being followed by the Department; and
- efficiency and effectiveness of internal control mechanisms.

6.4.4 Scope and methodology of audit

Audit selected six⁸⁵ out of 19⁸⁶ District Land and Land Reforms Offices (DL&LRO) and two respective Mining Offices by adopting stratified sampling method by application of IDEA software. In the Entry Conference, the Addl. Chief Secretary, L&LR Department suggested to include two more

⁸⁵ Birbhum, Burdwan, Darjeeling, North 24 Parganas, Paschim Medinipur and Purba Medinipur.

⁸⁶ Selected out of 18 Districts as Alipurduar district was created with effect from 25 June 2014.

DL&LROs namely Hooghly and Jalpaiguri. In addition to verification of records, audit cross-verified the information / data from different departments and other sources. The Performance Audit was conducted during March 2015 to August 2015 covering the period from 2009-10 to 2013-14.

6.4.5 Audit criteria

The receipts from minor minerals are governed by the following Acts and Rules.

- Mines and Minerals (Development and Regulation) Act, 1957
- The West Bengal Minor Minerals Rules, 2002
- The West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002
- The Cess Act, 1880
- The West Bengal Primary Education Act, 1973
- The West Bengal Rural Employment and Production Act, 1976

The recovery of outstanding mining dues is governed by the Bengal Public Demands Recovery (BPDR) Act, 1913.

6.4.6 Acknowledgement

Audit acknowledges the co-operation of the L&LR Department and C&I Department in providing necessary records and information for the Performance Audit. Prior to the audit, an Entry Conference between the Accountant General and Addl. Chief Secretary/Secretaries of the concerned Departments was held on 24 April 2015 where the objectives, scope, criteria and methodology of the Performance Audit were discussed. Findings of the Performance Audit were forwarded to the Departments in August 2015. The Exit Conference with L&LR Department was held on 15 October 2015 and views of the Departments have been suitably incorporated in the relevant paragraphs.

6.4.7 Trend of Revenue

Year-wise collection of revenue from minor minerals for the last five years as per information furnished by the Director, Land Records and Surveys, West Bengal is shown in **Table 6.2**.

Table 6.2 - Trend of revenue

(₹ in crore)

Year	Revenue from minor minerals
2009-10	87.80
2010-11	87.72
2011-12	179.34
2012-13	217.47
2013-14	209.16

As seen from the table, revenue from minor minerals continuously increased during the period from 2009-10 to 2013-14 except during the years 2010-11 and 2013-14, the reasons for which were not furnished by the departments.

Audit findings

Adequacy of Acts / Rules and Departmental instructions to safeguard the revenue of the State

During Performance Audit, a number of inadequacies in the Acts and Rules were observed which resulted in non/short realisation of Government revenue as discussed in the following paragraphs:

6.4.8 Multiplicity of departments for assessment and collection

Three departments are involved in assessment and collection of minor minerals. Royalty and dead rent in respect of stone, granite etc. of mining lease are assessed by the Chief Mining Officer (CMO) and Mining Officers (MO) under C&I Department, whereas, these are collected by the DL&LROs under L&LR Department. Royalty and cess in respect of mining lease of sand is assessed and collected by DL& LROs under L&LR Department, whereas, royalty and cess in respect of quarry permit holder of sand is assessed and collected by the I&W Department. All these receipts are deposited under the head 0029 (a tax revenue head under Land Revenue).

The involvement of three different departments of the State Government led to lack of coordination, delay and resultant evasion of Government revenue as discussed below:

6.4.8.1 Different royalty rate being applied by the I&W Department and the L&LR Department

In terms of the Notification⁸⁷ issued by C&I Department, the Executive Engineer of a Division under I&W Department is entrusted with grant of quarry permit in accordance with MM Rules, 2002 to extract or remove river- bed materials from any specified land on pre-payment of royalty at the rates as may be fixed from time to time. Accordingly, I&W Department formulated and notified in August 2014, the guidelines and procedures to be followed for issuance of quarry permits for extraction of river bed materials. But in the said notification the I&W Department quoted the rate of royalty on sand as ₹ 63 per 100 cft whereas, the rate of royalty on sand under Rule 20(1)(a) of the MM Rules, 2002 (read with Notification No. 809/CI/O/MM/84/11 dated 1.12.2011 of C&I Department) was fixed at ₹ 100 per 100 cft effective from 5.12.2011 as collected by L&LR Department.

Thus, I&W Department was collecting royalty on sand at lower rate than that was collected by L&LR Department, in violation of the said Rules. Consequently, the short term quarry permit holders under I&W Department were availing undue benefit of lower royalty than the long term mining lessee under L&LR Department, though the sand was extracted from the same river bed.

⁸⁷ No. 37/CI/O/MM/MNM/MIS/03/2013 dated 21.1.2014.

After this was pointed out (July 2015), C&I Department accepted that I&W Department was realising royalty as per old rate whereas the L&LR Department was realising it as per new rates as fixed in December 2011. The Department assured that it would shortly notify the West Bengal Minor Minerals Concession Rules, 2015 with new rates of royalty for minor minerals. Although the C&I Department conceded the audit observation, they did not intimate any remedial action in this regard.

6.4.9 Absence of a system of inspection at the place of excavation

Under Section 23C of the MMDR Act, 1957 read with Rule 34 of MM Rules 2002, the State Government was directed to frame rules for prevention of illegal mining, transportation and storage of minerals by incorporating provisions for inspection, checking and search of minerals at the place of excavation. Accordingly the state government framed the MPIMTS Rules, 2002, but there was no provision for inspection of minerals at the place of excavation. As per Section 21(5) of the MMDR Act, in case of unauthorised extraction of minerals, apart from other penal actions, the authority is empowered to recover either the minerals extracted or the price thereof.

Scrutiny of the long term lease files maintained by the DL&LRO, Birbhum revealed that a lessee⁸⁸ had acquired the mining lease of black stone on an area of 131.80 acres of land which expired in the year 1972 and thereafter the company did not apply for renewal/fresh lease. The company however, extracted black stone from that area till 2012 without obtaining any long term lease from the appropriate authority and dispatched them by Railways. In the absence of any provision in the MPIMTS Rules, 2002 for inspection and checking of minor minerals at the place of excavation, the L&LR Department could not detect the unauthorised extraction till March 2012. In March 2012 when it came to the notice of the department, it conducted a pit measurement and found extraction of 478.91 lakh cft of black stone between January 2009 and March 2012. The department instead of collecting the value⁸⁹ of the unauthorisedly extracted minerals i.e. ₹ 70.53 crore, assessed royalty and cess amounting to ₹ 5.94 crore resulting in short collection of revenue amounting to ₹ 64.59 crore. In the absence of any provision for inspection at the place of excavation, unauthorised extraction of minerals remained undetected.

After this was pointed out (June 2015), the ADM and DL&LRO, Birbhum admitted (June 2015) the audit observation and stated that action would be taken accordingly.

The Land Reforms Commissioner (LRC) in the Exit Conference (October 2015) stated that demand notice had been issued by the ADM and DL&LRO, Birbhum for short realisation and this Department had requested C&I Department to make a specific provision in MPIMTS Rules regarding inspection and checking of minerals at the place of excavation.

⁸⁸ M/s Rajgaon Stone Company Pvt. Ltd.

⁸⁹ Value as per schedule of rates of circles under Public Works Department has been considered as the price of the minerals.

6.4.10 Absence of a system of cross verification of data with Central and State Government departments

As per Section 21(5) of the MMDR Act, 1957 and Rule 33(5) of the MM Rules, 2002, no person is entitled to undertake mining operation without a proper lease or valid permit. In the event of violation, apart from other penal actions, the authority is empowered to recover either the minerals raised unlawfully or the price thereof.

As per General Conditions of Public Works Division (West Bengal), Schedule of Rates, Volume-III, Road and Bridge Works, all rates quoted by the working contractors/agencies will be inclusive of royalty, cess etc. as may have to be incurred by the contractor/agency for getting the respective items of works. L&LR Department had issued orders⁹⁰ to different executing agencies to obtain royalty and cess clearance/payment certificate from the contractors for minerals used. In absence of that, royalty and cess were to be deducted at source by the executing agencies before clearing final bill.

Cross verification, conducted by audit, of data of different organisations with the quarry permit registers of concerned DL&LROs, revealed a number of discrepancies as discussed below:

6.4.10.1 In Darjeeling and Jalpaiguri districts, one company (M/s Italian Thai Development Public Co. Ltd.) was entrusted by National Highway Authority of India (NHAI) with the work of widening and strengthening of existing National Highway from 2-lane to 4-lane⁹¹. The material consumption statements received from NHAI revealed that the contractor had extracted 6,513.27 lakh cft earth and 29.60 lakh cft river bed material between 2009-10 and 2013-14 in excess of the permitted quantity. Thus, extraction of the minerals in excess of the permitted quantity was unauthorised for which price of minerals of ₹ 49.21 crore, should have been realised.

After this was pointed out (May 2015), ADM and DL&LRO, Darjeeling and Jalpaiguri admitted (May 2015) the audit observation. LRC in the Exit Conference (October 2015) stated that L&LR Department had issued instructions advising all concerned to develop a system of cross verification with other Central Organisations.

6.4.10.2 In Darjeeling and Uttar Dinajpur districts, a company (M/s IRCON International Ltd.) was entrusted by NHAI with the work of widening and strengthening of existing National Highway⁹². The company had used 13.56 lakh cft river bed materials between 2009-10 and 2013-14 as revealed from the material consumption statements received through the NHAI. The company did not take any quarry permit from the district authorities, resulting in non-realisation of price of minerals of ₹ 61.44 lakh.

⁹⁰ L&LR Deptt. Order No.-4234(4)-M&M dated 12.08.2005, L&LR Deptt. Order No.6107/LR/All/M&M dated 03.08.2010, DM, North 24 Parganas Order No.C/47(16)/L&LR(N) dated 06.01.2012 and DL&LRO, Darjeeling Order No. 12 dated 27.06.12.

⁹¹ Salsalabari to Assam Bengal Border section of NH-31 C in West Bengal of East-West Corridor under NHDP Phase-II.

⁹² From 2-lane to 4-lane of Siliguri to Islampur section of NH-31 and Islampur bypass of 10.31 km length in West Bengal.

After this was pointed out (May 2015), ADM and DL&LRO, Darjeeling and Uttar Dinajpur admitted (May 2015) the audit observation. LRC in the Exit Conference (October 2015) stated that L&LR Department had issued instructions advising all concerned to develop a system of cross verification with other Central Organisations.

6.4.10.3 Cross verification of data of 33 contractors with quarry permit register of the concerned DL&LROs who worked under Zilla Parishads of North 24 Parganas, Burdwan and Purba Medinipur revealed that the contractors used 121.27 lakh cft of earth for construction of road in the respective districts without taking any quarry permit from the district authorities. However, the executing agencies did not deduct royalty and cess at source before clearing final bill. Thus the contractors were liable to pay price of earth of ₹ 89.61 lakh.

On being pointed out (between December 2014 and April 2015), ADM and DL&LRO, Burdwan stated (January 2015) that appropriate authority would be intimated about the irregularity. ADM and DL&LROs, North 24 Parganas and Purba Medinipur did not furnish any/specific reply.

LRC in the Exit Conference (October 2015) stated that the contractors should deposit the amount in the LR head and submit the copy of challan to the concerned DL&LRO for cross verification.

6.4.10.4 Cross verification of data obtained from the Executive Engineer, Teesta Barrage Division, Siliguri revealed that 13 contractors were awarded maintenance and repair works under Teesta Barrage Project and used 3.56 lakh cft earth and 1.74 lakh cft river bed material during the execution of the said work without taking any quarry permit from the district authorities. However, the Executive Engineer, Teesta Barrage Division, Siliguri did not deduct royalty and cess at source from the contractor's final bill. Thus the contractors were liable to pay price of earth of ₹ 10.66 lakh.

On being pointed out (May 2015), ADM and DL&LRO, Darjeeling admitted (May 2015) the observation and stated that necessary action was being taken to guard against the evasion of revenue.

LRC in the Exit Conference (October 2015) stated that demand notice has been issued by the DL&LRO, Darjeeling.

6.4.10.5 Gorkhaland Territorial Administration (GTA) consisting of 13 working divisions executed different development works under various schemes of Central and State Government. Audit found from the register and records of SDL&LROs, Kalimpong and Darjeeling Sadar that five out of 13 divisions had deducted royalty and cess from the contractors bill and deposited in the LR head by issuing of cheques during the period from 2009-10 to 2013-14. However, there was no record available with regard to payment of royalty and cess in respect of remaining eight divisions.

Test check of final bills of eight contractors in one division (Special Department Engineering Division) revealed that in five cases royalty and cess of minor minerals amounting to ₹ 18.07 lakh were deducted from the contractors' final bill by the executing division but same was not deposited in the LR head. In one case, the contractor used 80.33 lakh cft river bed material

in 2011-12 in excess of the permitted quantity for which price of minerals of ₹ 3.64 crore was realisable, but which was not realised.

On being pointed out (May 2015), the ADM and DL&LRO, Darjeeling admitted (May 2015) the facts and stated that necessary action would be taken accordingly.

LRC in the Exit Conference (October 2015) stated that demand notice had been issued by the DL&LRO, Darjeeling.

6.4.10.6 Cross verification of data of six contractors with quarry permit register of DL&LRO, Darjeeling, who worked under Siliguri Jalpaiguri Development Authority (SJDA) revealed that the contractors used 23.89 lakh cft of earth for construction of road, land development etc. without taking any quarry permit from the district authority. However, SJDA did not deduct royalty and cess at source before clearing the final bill. Thus the contractors were liable to pay price of earth of ₹ 16.33 lakh.

On being pointed out (May 2015), ADM and DL&LRO, Darjeeling admitted (May 2015) the audit observation and stated that necessary action was being taken to guard against the evasion of revenue.

LRC in the Exit Conference (October 2015) stated that demand notice had been issued by the DL&LRO, Darjeeling.

Thus, audit observed that there was no system of cross verification of data with the information of minor minerals used by the contractors/agencies to other Central and State Government departments to guard against the evasion of royalty and cess.

LRC in the Exit Conference (October 2015) stated that L&LR Department issued instructions in September 2015 to all the DL&LROs to make arrangements for cross verification of data relating to royalty/cess with other executing agencies of the Central and State Government on a regular basis.

6.4.11 Rate of interest not prescribed by the State Government

Clause 4 of Part VI under Rule 24(1) of the MM Rules, 2002 provides that the lessee shall be liable to pay interest at the rate prescribed by the Government on any amount remaining payable. However, unlike the rate of interest prescribed under Rule 64(A) of Government of India's Mineral Concession (MC) Rules, 1960, the State Government has not prescribed any rate of interest for delayed payment of mining dues of minor minerals till date.

Audit observed from the records of DL&LRO, North 24 Parganas that Housing Infrastructure Development Corporation Ltd. (HIDCO) had developed New Township Project area with the extraction of 4,296.47 lakh cft of earth through 14 developing agencies during the period from 1998-99 to 2004-2005. Accordingly, the BL&LRO, Rajarhat issued demand notice of ₹ 27.71 crore towards price of the extracted earth for payment by 31 March 2007. HIDCO made payment of the dues of ₹ 13.85 crore in February 2012 and ₹ 13.86 crore in December 2012 after delays of 59 and 70 months respectively.

Audit also observed from the records of DL&LRO, Birbhum that the outstanding dues of M/s West Bengal Mineral Development and Trading

Corporation Ltd. (WBMDTC) for Panchami Project area as on 30 September 2000 were ₹ 90.91 lakh. WBMDTC made delayed payment of the dues of ₹ 90.91 lakh in February 2012 after delay of 135 months.

The concerned BL & LROs and DL&LROs, however, could not levy interest of ₹ 37.74 crore⁹³ for delayed payment of mining dues.

After this was pointed out (April and June 2015), the ADM and DL&LRO, North 24 Parganas stated (April 2015) that the matter of delayed payment in respect of HIDCO would be looked into while the ADM and DL&LRO, Birbhum (June 2015) stated that the matter would be referred to the higher authority for instructions.

LRC in the Exit Conference (October 2015) stated that “the matter relating to prescribing rate of interest on arrear revenue will be explored by the department in respect of such cases in future”. The C&I Department stated that in terms of Rule 2(2) of MM Rules, there was no bar to impose interest at the rate as prescribed in MC Rules. Although L&LR Department accepted the audit observation while C&I Department stated that there was no need for prescribing the rate of interest separately as the same already exists in the MC Rules. However, the contention of audit is that no interest was being levied in these cases.

6.4.12 Absence of a time limit for initiation of certificate proceedings

Assessment and collection of royalty, cess, price of earth, etc. are governed under the MMDR Act, 1957, and Rules made there under. Further, Section 25 of the MMDR Act provides that the assessed dues remaining unpaid are recoverable as arrears of land revenue under the BPDR Act, 1913. The process prescribed in the Act to recover the assessed dues remaining unpaid is called certificate proceedings.

Audit found from the statement of dues of the DL&LRO, Birbhum that the mining dues of black stone from 88 quarry permit holders relating to the period between December 2006 and July 2014 under Nalhati-I and Rampurhat-I blocks were ₹ 5.57 crore. Only an amount of ₹ 2.33 lakh was realised from five out of 88 quarry permit holders of black stone between August 2014 and May 2015. Further, mining dues of sand for the period between 2004-05 and 2012-13 in respect of seven lessees were ₹ 19.25 lakh.

Audit also found from the records of four⁹⁴ DL&LROs that outstanding dues relating to the period between 2000-01 and 2013-14 in respect of 115 brick fields were ₹ 1.57 crore.

By taking cognizance of the audit observations that appeared in the Audit Reports (Revenue Receipts) for the years 2005-06 and 2007-08, the L&LR Department (PAC Branch) had directed⁹⁵ in February 2011, all DL&LROs to take initiatives to keep track of the progress of certificate proceedings. However, audit observed that DL&LROs did not take any step to realise

⁹³ Calculated by applying the rate of interest prescribed in MC Rules, 1960.
⁹⁴ Burdwan, Hooghly, Jalpaiguri and Purba Medinipur.
⁹⁵ Memo no. 833 dated 04.02.11.

outstanding dues by initiating certificate proceedings under BPDR Act, 1913 even after lapses of between one and 14 years. This resulted in non-realisation of revenue of ₹ 7.31 crore.

Audit observed that the Government had neither prescribed any time limit for initiating the certificate proceedings nor had it instituted a periodic review and monitoring mechanism to ensure prompt realisation of assessed dues.

After this was pointed out (between March and August 2015), DL & LRO, Birbhum stated (June 2015) that action would be taken accordingly and ADM and DL&LRO, Burdwan stated (August 2015) that the concerned BL&LROs would be instructed soon to initiate certificate cases against the defaulters. Remaining ADM and DL&LROs did not furnish any/ specific reply. LRC in the Exit Conference assured that the instructions issued in February 2011 will be followed *mutatis mutandis*. However, no comments were made on the issue of fixing any timeline for initiating the certificate action.

6.4.13 Payment of royalty on brick earth at lower rate

Section 15(3) of the MMDR Act, 1957 read with Rule 20 of the MM Rules, 2002 provides that the holder of a mining lease/quarry permit shall pay royalty at the prescribed rate in respect of any mineral or minerals extracted or removed or consumed by him or his agent, manager, employee or contractor. Further, the State Government shall not enhance the rate of royalty more than once during any period of three years.

Audit observed that the C&I Department enhanced rate of royalty on brick earth on three occasions between June 1987 and December 2011. These were challenged by Bengal Brick-Field Owners' Association & Ors. and Birbhum Brick-Field Owners' Association & Ors. before the Hon'ble High Court, Calcutta. Operation of the notifications revising the royalty rates was stayed⁹⁶ and the Government was directed to fix royalty area wise and region wise. Under the Hon'ble High Court orders, the brick fields continued payment at the old rate.

The C&I Department did not comply with the court judgement regarding fixing royalty area wise and region wise nor framed a new Rule under Section 15(1) of MMDR Act, 1957. Thus, a large number of brick field owners in West Bengal were paying royalty at the rate of ₹ 15 (rate applicable prior to June 1987) instead of royalty at the rate of ₹ 51 (rate from December 2011) per 100 cft brick earth for last 25 years. Inaction on the part of the department has been causing recurrent loss of revenue to the State exchequer.

After this was pointed out (January 2015), the C&I Department stated that the Department had constituted a committee to fix the rate of royalty for minor minerals including brick earth and that the committee had submitted a final report which was under consideration.

⁹⁶ Judgement and order dated 02.09.1998 in C.O. No. 6895(W) of 1990 Birbhum Brick Field Owners' Association & Others-Vs-State of West Bengal and Others. Judgement and order dated 16.01.03 in W.P. No. 992(W) of 2003 Bengal Brick Field Owners' Association & Ors-Vs-State of West Bengal & Others.

6.4.14 Absence of environmental protection measures

(i) For optimal utilisation of mineral resources and sustainable development of the mineral sector, National Mineral Policy, 2008, was framed by the Central Government. The Model State Mineral Policy, 2010 was circulated to all State Governments, requiring them to develop suitable mineral policy within the ambit of the National Mineral Policy, keeping in view their local requirements. The States were to frame a policy for the proper exploitation of minor minerals, addressing environmental concerns which were to address the following:

- (1) The licence or permits for minor minerals are to be given wherever possible to local bodies such as co-operatives or panchayats.
- (2) Mining is done in such a way that does not cause environmental disturbance including water and air pollution or disturbance to natural ecological regimes.

The State Government had not yet formulated State Mineral Policy to ensure scientific, systematic and sustainable development of mineral resources and to address all environmental and ecological issues though other states like Rajasthan, Karnataka, Meghalaya, Madhya Pradesh, Goa etc. already formulated State Mineral Policy.

LRC in the Exit Conference (October 2015) stated that the State Government was working on the formulation of State Mineral Policy and that once it is finalised, instructions would be issued for implementation.

(ii) Rule 27 of the MM Rules, 2002 read with Government of India, Ministry of Environment, Forests & Climate Change (MoEFCC) notifications⁹⁷ provides that brick fields situated within a radius of 100 kms of a thermal power plant should mix 30 *per cent* fly ash with brick earth as an environmental protection measure. From the field enquiry reports of the brick fields and the information provided by five DL&LROs⁹⁸, audit observed that out of the 1,791 brick fields test checked, 1,777 brick fields were not using fly ash although located within the radius of 100 kms of thermal power plants.

(iii) In addition, as per L&LR department orders of September 2000, brick field owners must produce a 'Consent to Operate' certificate from the West Bengal Pollution Control Board. Under Air (Prevention and Control of Pollution) Act, 1981 as amended from time to time, for the purpose of dealing with matters relating to grant/refusal of the above certificate to brick fields, authorities have been delegated to the DL&LROs, who are also ex-officio Environmental Officers of the West Bengal Pollution Control Board. Audit observed that out of the test checked 1,791 brick fields only 266 brick fields submitted 'Consent to Operate' and remaining 1,525 brick fields were operating without pollution control clearance. The concerned DL&LROs did not monitor the non-compliance nor took any action against the defaulting brick fields.

⁹⁷ No. S.O.763 (E) dated 14.9.99, subsequently amended vide notification No. S.O.979 (E) dated 27.8.2003 and letter No. S.O.2804 (E) dated 3.11.2009.

⁹⁸ Burdwan, Hooghly, North 24 Parganas, Paschim Medinipur and Purba Medinipur.

Whether existing provisions on assessment and collection procedures being followed by the Department

During Performance Audit a number of deficiencies in the compliance of existing provisions of the Acts and Rules were observed which resulted in non/short realisation of Government revenue as discussed in the following paragraphs:

6.4.15 Non-monitoring of revenue collected by other departments on behalf of L&LR Department

In terms of Notification⁹⁹ by C&I Department, effective from 5 December 2011, the rate of royalty for extraction of earth was revised from ₹ 34 to ₹ 51 per 100 cft.

Cross verification of data relating to contractors who had worked under two Divisions¹⁰⁰ of West Bengal State Rural Development Agency (WBSRDA), in connection with Pradhan Mantri Gram Sadak Yojana Work (Phase-VII) revealed that WBSRDA included royalty and cess in the estimates prepared for each package. The executive agencies deducted royalty and cess towards extraction of earth etc. from bills of the contractors. These were deposited in the relevant head of accounts through the respective DL&LROs. Further scrutiny revealed that during the period upto 2013-14, the Executive Engineers of both divisions deducted royalty from bills of 102 contractors/agencies at the pre-revised rate. As the WBSRDA was sending cheques along with details of extraction to the DL&LROs for them to deposit in LR head, DL&LROs neither checked nor informed the WBSRDA about short deduction of royalty at pre-revised rate. As a result there was short levy and short realisation of royalty and cess to the tune of ₹ 53.08 lakh.

After this was pointed out (January and April 2015), ADM and DL&LRO, Burdwan stated (January 2015) that appropriate authority would be intimated about the irregularity shortly while ADM and DL&LRO, Purba Medinipur, did not furnish any reply.

LRC in the Exit Conference (October 2015) stated that the Department had requested WBSRDA to report the realisation of royalty and cess towards extraction of minor minerals and requested the C&I Department to regularly intimate other concerned departments regarding enhancement of rates of royalty to prevent short levy of royalty/cess. However, the L&LR Department cannot be absolved of responsibility to check correctness of rates applied.

6.4.16 Non/short realisation of royalty and cess on minor minerals

According to Rule 20(1)(a) of MM Rules, 2002, every lessee/person is required to pay royalty in respect of mineral removed/consumed by him or his agent/contractor at the specified rates. In addition, cess is payable at the rate of ₹ 24 and ₹ 15 per 100 cft for removal of black stone and other minor minerals respectively.

⁹⁹ No. 809/CI/O/MM/84/11 dated 01.12.2011.
¹⁰⁰ Burdwan-2 Division and Purba Medinipur Division.

6.4.16.1 It was observed that West Bengal Industrial Development Corporation (WBIDC) submitted a prayer to the DL&LRO, Paschim Medinipur in February 2014 for conversion of 73.33 acres¹⁰¹ out of 154.43 acres of land at Godapiasal Industrial Park at Salboni. This entire area of 154.43 acres of land was allotted to OCL Bengal Cement Works India Ltd (Company) by WBIDC. While processing the case, the DL&LRO demanded ₹ 1.56 crore to WBIDC as royalty and cess towards minor minerals used for filling the uneven land.

Audit scrutiny revealed that the Company intimated to WBIDC in April 2014 that filling of land was done by using lesser quantity of minor minerals compared to the demand raised by the DL&LRO. On the basis of this information, a field enquiry was conducted by L&LR Department in June 2014. This revealed that although WBIDC had requested for conversion for 73.33 acres, the entire area of 154.43 acres had been filled and 5.55 crore cft of minor minerals were used without taking permission from competent authority.

Accordingly revised demand of ₹ 4.64 crore was issued to WBIDC in June 2014 but the same had not been realised even after lapse of 13 months from the date of demand and 12 months from the date of issue of conversion certificate. This resulted in non-realisation of royalty and cess of ₹ 4.64 crore.

After this was pointed out (July 2015), ADM and DL&LRO, Paschim Medinipur stated (July 2015) that the matter had already been referred to the L&LR Department.

LRC in the Exit Conference (October 2015) stated that though the demand notice was issued to WBIDC, no response had been received till date.

6.4.16.2 Under MM Rules 2002, extraction of minor minerals is permissible on the strength of a quarry permit on realisation of royalty and other charges, in advance, at rates prescribed by the Government from time to time. The rate of royalty on earth, sand and stone/boulder etc. was revised from ₹ 63 per 100 cft to ₹ 100 per 100 cft with effect from 5 December 2011.

Audit found from the records of three¹⁰² DL&LROs that 27 quarry permits were granted for extraction of 38.85 lakh cft minor minerals between 5 December 2011 and 31 March 2013. The DL&LROs, however, realised royalty and cess of ₹ 30.23 lakh at the pre-revised rate instead of ₹ 44.29 lakh realisable. This resulted in short realisation of royalty of ₹ 14.06 lakh.

After it was pointed out (September 2013 and February 2014), ADM and DL&LROs, Malda and Murshidabad admitted (September 2013 and February 2014) the audit observations in 16 cases. In the remaining cases, the ADM and DL&LRO, Purba Medinipur did not furnish any specific reply.

6.4.16.3 Audit found from the records of BL&LRO, Rampurhat-I under the DL&LRO, Birbhum that in 94 cases, the quarry permit holders of stone paid cess at the rate of ₹ 21.25 instead of ₹ 24.00 per 100 cft. This resulted in short realisation of cess of ₹ 13.22 lakh.

¹⁰¹ Change of classification from one category to another category in the land revenue records.

¹⁰² Malda, Murshidabad and Purba Medinipur.

After this was pointed out (January 2015) the ADM and DL&LRO, Birbhum did not furnish any specific reply.

LRC in the Exit Conference (October 2015) stated that demand notice had been issued to the defaulters for realisation of the amount as pointed out by audit.

6.4.17 Non-realisation of price of minerals

Under Section 21(5) of the MMDR Act, 1957 and Rule 33(5) of the MM Rules, 2002, no person is entitled to undertake mining operation without a proper lease or valid permit. In the event of violation, apart from other penal action, the authority is empowered to recover either the minerals raised unlawfully or the price thereof.

Mutation was done in favour of WBIDC in Paschim Medinipur district in respect of 1,134.23 acres of land falling under Vidyasagar Industrial Park at Kharagpur. Subsequently, WBIDC allotted this land to different companies for setting up industries and other commercial purposes. WBIDC submitted prayer for conversion of said land in September 2013 to DL&LRO, Paschim Medinipur. Accordingly, the DL&LRO demanded ₹ 29.61 crore in September 2013 and March 2014 as price of the minor minerals used for land filling while processing the conversion of said land. But WBIDC, instead of paying the amount, stated that the entire filling job was done by the companies, so the companies were liable to pay the amount of royalty and cess of minor minerals used for filling job. Hence, to ascertain the actual filling area, a field enquiry was conducted by DL&LRO in June 2014. The report revealed that 456.66 acres of land was filled with minor minerals and the price of which was assessed as ₹ 16.21 crore.

Although, DL&LRO opined that as per the land records, WBIDC was the *raiyat*¹⁰³ hence liable to pay the price of minor minerals, it did not raise the revised demand. This resulted in non-realisation of price of minor minerals of ₹ 16.21 crore.

After this was pointed out (July 2015), ADM and DL&LRO, Paschim Medinipur stated (July 2015) that no realisation had been made till date and the matter was conveyed to L&LR and C&I Departments for realisation of the demand. There was no response from the Department about the non-issuance of revised demand.

6.4.18 Non-realisation of price of brick earth

Under Section 21(5) of MMDR Act, 1957 and Rule 33(5) of the MM Rules, 2002, no person is entitled to undertake mining operations without a lease or valid permit. In the event of violation, apart from other penal actions, the authority is empowered to recover either the minerals raised unlawfully or the price thereof. By an order passed in September 1984, the Board of Revenue, West Bengal fixed the market price of brick earth at ₹ 30 per 100 cft for 1981 with an increase of ₹ 1.50 per 100 cft each year until a new price is fixed.

¹⁰³ *Raiyat* means a person or an institution holding land for any purpose.

Audit found from records of 10¹⁰⁴ DL&LROs that in 1,131 cases, brick field owners extracted 19.93 crore cft of brick earth unauthorisedly between 2009-10 and 2013-14 without valid permits. Out of these, in 775 cases, the price of brick earth of ₹ 9.73 crore though realisable was not realised. In the remaining 356 cases, out of the realisable amount of ₹ 5.44 crore, only ₹ 2.54 crore were realised. This resulted in non/short realisation of revenue of ₹ 12.63 crore.

After it was pointed out (between August 2013 and June 2015), four¹⁰⁵ ADM and DL&LROs admitted (between September 2013 and January 2015) the audit observations in 435 cases. In the remaining cases, the ADM and DL&LROs did not furnish any/specific reply.

In the Exit Conference (October 2015), LRC contended that the order passed in 1984 was cancelled vide memo dated 19.5.2014 hence, price of earth could not be realised. The contention of the department was not based on facts as the cases commented upon pertained to the period when the said orders were in force.

6.4.19 Non-realisation of penalty

In terms of Rule 21(1)(e) of MM Rules, 2002, the lessee shall extract and dispatch the minimum quantity of mineral from the leasehold area annually, as prescribed in the lease deed. In case there is any shortfall in the extraction and dispatch of the said minimum quantity without any satisfactory reason, penalty to the tune of twice the amount of royalty that should have accrued in respect of the shortfall in quantity shall have to be paid by the lessee.

Audit found from records of six¹⁰⁶ DL&LROs that 42 lessees in 67 cases extracted 6.70 crore cft of sand and stone against the minimum prescribed quantity of 17.86 crore cft as per the lease deeds. However, DL&LROs did not levy and demand penalty of ₹ 17.74 crore for short extraction of 11.16 crore cft of sand and stone though nothing was found on record regarding the reasons for such short extraction. This resulted in non-levy of penalty and consequent non-realisation of revenue of ₹ 17.74 crore.

After it was pointed out (between September 2012 and June 2015) by audit, ADM and DL&LROs, Burdwan and Paschim Medinipur admitted (July and August 2015) the audit observations in 20 cases. In the remaining cases the ADM and DL&LROs did not furnish any/specific reply.

LRC in the Exit Conference (October 2015) accepted the point and stated that the position of realisation would be reported shortly.

6.4.20 Non-realisation of dead rent

Under Rule 20 (1)(b) of MM Rules, 2002, the lessee shall annually pay the higher of the dead rent ¹⁰⁷ or the royalty in respect of each mineral.

¹⁰⁴ Birbhum, Burdwan, Hooghly, Howrah, Murshidabad, Nadia, North 24 Parganas, Paschim Medinipur, Purba Medinipur and South 24 Parganas.

¹⁰⁵ Burdwan, Murshidabad, Paschim Medinipur and South 24 Parganas.

¹⁰⁶ Bankura, Birbhum, Burdwan, Darjeeling, Jalpaiguri and Paschim Medinipur.

¹⁰⁷ Dead rent is an annual rent to be paid by the lessee of a mine.

Audit found from the files of mining leases in two¹⁰⁸ DL&LROs that 13 lessees of sand did not extract sand for different periods during the lease period. Out of these, dead rent was assessed in respect of two lessees but was not realised; for the remaining 11 lessees, no dead rent was assessed or demanded. This resulted in non-realisation of dead rent of ₹ 9.37 lakh.

After this was pointed out (June and July 2015), ADM and DL&LRO, Birbhum stated (June 2015) that action would be taken accordingly. DL & LRO, Hooghly did not furnish any reply.

LRC in the Exit Conference (October 2015) stated that action would be taken at an early date and position of realisation would be reported shortly.

6.4.21 Non/ short-realisation of revenue from extraction of brick earth

Rules 27 and 28 of MM Rules 2002, regulate the grant of quarry permits for extraction and removal of minerals. The quarry permit is to be issued by the DL&LROs in Form- 'F' on receipt of the application from the applicant in Form- 'G'. These have to be submitted along with challan of deposit of the prescribed application fee and on pre-payment of royalty for the quantity of minor minerals permitted to be extracted.

Detailed scrutiny of 254 cases in seven¹⁰⁹ DL&LROs revealed that brick field owners did not apply for permits in Form-'G' nor paid the royalty in advance and continued their extraction of brick earth during the year 2009-10 to 2013-14 for manufacturing of bricks. In 198 out of these 254 cases, it was seen that although the brick field owners had extracted¹¹⁰ 3.26 crore cft of brick earth, neither did the owners pay royalty and cess amounting to ₹ 1.17 crore, nor was any action initiated by the DL&LROs to realise these dues. In other 56 cases, the brick field owners extracted 93.40 lakh cft of brick earth and paid royalty and cess of ₹ 29.22 lakh against ₹ 38.60 lakh, but the DL&LROs did not initiate any action to realise the differential amount. Thus, non-compliance of the provisions related to pre-payment of royalty resulted in non / short realisation of royalty and cess of ₹ 1.26 crore.

After this was pointed out (between August 2013 and July 2015), five¹¹¹ ADM and DL&LROs admitted (between September 2013 and July 2015) the audit observations in 100 cases. In the remaining cases, the ADM and DL&LROs did not furnish any/specific reply.

LRC in the Exit Conference (October 2015) stated that action would be taken accordingly.

Efficiency and effectiveness of internal control mechanism

Internal control is an integral component of an organisation's management processes to provide reasonable assurance that the organisation's operations

¹⁰⁸ Birbhum and Hooghly.
¹⁰⁹ Birbhum, Burdwan, Howrah, Nadia, North 24 Parganas, Paschim Medinipur and South 24 Parganas.
¹¹⁰ As per quantum fixed in the yearly meeting.
¹¹¹ Burdwan, Howrah, North 24 Parganas, Paschim Medinipur and South 24 Parganas.

are carried out effectively, economically and efficiently. Deficiencies in the internal control mechanism are discussed in the following sub-paragraphs:

6.4.22 Non-verification of challans issued by the L&LR Departments with the returns submitted by the lessee

As per Rule 20(1) of the West Bengal Minor Minerals Rules, 2002 (MM Rules), the holder of a mining lease needs to pay royalty in respect of minerals extracted or removed or consumed. Rule 4(2) of the West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002 (MPIMTS Rules) envisages that all dispatches of minerals by the holder of a mining lease or quarry permit by a carrier shall be accompanied by a challan or transit pass issued by the officer authorised by the State Government in this regard.

The DL&LROs under the L&LR Department have been authorised to issue challans for despatching the stone, granite etc. whereas royalty in respect of these minerals of a mining lease is assessed by the Mining Officers under C&I Department. However, Mining Officers assessed the royalty only on the basis of returns submitted by the lessee. There was no system of exchange of information or cross verification between the records of the Mining Officers and DL&LROs in respect of the numbers of these challans issued, in the absence of which, Mining Officers assessed the royalty without verifying the quantities of materials actually transported.

During the scrutiny of records of the DL&LRO, Birbhum, audit found that challans were issued on demand to a lessee¹¹² for Panchami-Hatgachha Stone Mining Project, for carrying 281.60 lakh cubic feet (cft) of black stone during the period between April 2012 and March 2014. However, scrutiny of returns submitted by the lessee to the MO, Suri, for assessment of royalty revealed that the lessee disclosed extraction and dispatch of only 192.74 lakh cft of black stone. The MO, Suri, assessed royalty and the lessee deposited the assessed royalty to the Government account accordingly. The difference of 88.86 lakh cft (= 281.60 - 192.74) remains unexplained, and no records exist from which the utilisation of such challans could be independently verified and assurance obtained about the correctness of the royalty assessed and collected.

After this was pointed out (June 2015), DL&LRO, Birbhum stated (June 2015) that action would be taken accordingly.

LRC in the Exit Conference (October 2015) stated that demand notice had been issued by the ADM and DL&LRO, Birbhum for short realisation of royalty and cess. Department had also referred the recommendation to the C&I Department for making provisions in the relevant rules.

6.4.23 Disposal of lease applications for minor minerals other than sand

In terms of Rule 7 of MM Rules, 2002, an application for mining lease shall be disposed of within one year from the date of its receipt, provided that the period of disposal may be extended by a further period of one year. Extension

¹¹² M/s West Bengal Mineral Development & Trading Corporation Ltd. (WBMDTC).

can only be granted after recording the reasons for considering the extension to be fit and deserving, after the party submits an application.

During test check of lease registers and case files of lessees in the office of the Director of Mines and Minerals (DMM), audit found that out of 411 lease applications received upto March 2014, 377 lease applications were lying pending as detailed in the following **Table 6.3**.

Table 6.3- Disposal of lease applications

Application pending as on 31 March 2009	Application received between 2009-10 and 2013-14	Disposal of lease application			Application pending (as on January 2015)		
		Granted	Rejected	Total disposal	Total pending	Pending with the DMM	Pending with the C&I Department
220	191	08	26	34	377	14	363

Lease applications could not be disposed of, for periods ranging between one and 26 years as depicted in the table below.

Table 6.4- Age analysis of pending applications

Period	Pending applications
Below 5 years	157
6 to 10 years	121
11 to 15 years	98
More than 15 years	1
Total	377

The disposal of applications during the above period was therefore only 8.27 *per cent*. No report/return has been prescribed in the Acts and Rules to watch timely disposal of the lease applications, in the absence of which the Government was not even aware of the low percentage of settlement of lease applications causing loss of Government revenue.

After this was pointed out (January 2015), DMM admitted (January 2015) the audit observation and stated that C&I Department had been informed accordingly whereas the C&I Department did not furnish any specific reply.

6.4.24 Non-renewal of expired sand mining lease

6.4.24.1 As per Rule 12(1) of MM Rules, 2002, an application for renewal of mining lease shall be made to the State Government or to an officer duly authorised by the State Government in this behalf. Application has to be made in Form-‘D’ at least six months before the date on which the lease is due to expire but not before nine months from date of expiry. The application for renewal has to be disposed of within nine months from the date of receipt.

Under a notification issued in November 2006, the DL&LRO of the district concerned was to issue public notices after consulting the concerned Executive Engineer of I&W Directorate inviting fresh application for mining lease in

respect of minor minerals available in riverbed, brick earth and morrum for the district and to process such applications.

Audit found from the records of three DL&LROs that 98 leases expired between September 2002 and November 2011. In the DL&LRO, Birbhum six renewal applications and 69 fresh applications were received in respect of 24 expired leases but no action was taken to grant these leases, whereas no application was invited for granting of lease in respect of 74 expired leases in DL&LRO, Darjeeling (04) and DL&LRO, Burdwan (70).

Audit noticed that there was no system to watch the date of expiry of leases through regular returns, reports etc., due to which the grant of mining leases for such a long period escaped the notice of the department. Mining lease registers were also not being maintained as has been discussed in following Paragraph No. 6.4.26. This resulted in loss of Government revenue to the extent of ₹ 10.55 crore as royalty and cess in 98 cases.

After this was pointed out (between May 2015 and July 2015), ADM and DL&LROs did not furnish (between June 2015 and August 2015) any/specific reply.

LRC in the Exit Conference (October 2015) accepted the audit observation and stated that efforts were being made for renewal of expired leases.

6.4.24.2 In terms of Rule 16B of MM Rules, 2002 read with notification¹¹³ issued by C&I Department, mining lease in respect of river-bed materials and minerals like kankar, morrum and brick earth on land vested in Government shall be granted only through public notices inviting tenders in sealed cover. Such mining lease shall be for a period of not more than two years. Further, in another notification¹¹⁴, C&I Department issued guidelines for implementation of amended provisions of the rule.

Audit found from the records of three DL & LROs (Burdwan, Birbhum and Darjeeling) that 64 leases had expired between December 2011 and December 2013, of which two lessees had applied for renewals of their leases. While notices inviting tenders were issued and published in the local newspapers in the said districts between May 2012 and April 2013, auctions were conducted in which interested bidders offered bids. However, no further action for granting/ renewal of mining lease was taken by the authorities, reasons for which were not on record.

Non-settlement of expired mining leases resulted in loss of Government revenue to the extent of ₹ 3.61 crore as royalty and cess in 64 cases. Further, it was also noticed that no enquiry was conducted by the competent authority to assess whether any extraction was continuing in the said expired mining lease areas.

After this was pointed out (between May 2015 and July 2015), ADM and DL&LROs did not furnish (between June 2015 and August 2015) any/specific reply.

¹¹³ No. 809/CI/O/MM/84/11 dated 01.12.2011.

¹¹⁴ No. 819(36)/CI/O/MM/84/11 dated 08.12.2011.

LRC in the Exit Conference (October 2015) accepted the audit observation and stated that efforts were being made for renewal of expired leases.

6.4.25 Non-maintenance of register of arrear of revenue

According to the instructions issued in August 2000 by Director of Land Records and Surveys, West Bengal, BL&LROs are required to maintain a minor mineral wise register showing the details of demand, amount paid, date of payment, outstanding dues etc.

Audit observed that BL&LROs under DL&LROs Purba Medinipur¹¹⁵, North 24 Parganas¹¹⁶, Darjeeling¹¹⁷ and Paschim Medinipur¹¹⁸ did not maintain the register of arrears of revenue. Two DL&LROs (Birbhum and Paschim Medinipur) did not maintain the said register though they were collecting revenue from minor minerals at district level.

The department did not maintain the register of arrears of revenue and in absence of which the DL&LROs could not watch the position of outstanding dues and recovery thereof.

LRC in the Exit Conference (October 2015) stated that necessary steps would be taken accordingly.

6.4.26 Non-maintenance of register of mining leases

Under Rule 25(1) of MM Rule, 2002, a register of mining lease in respect of minor minerals shall be maintained with necessary details¹¹⁹.

Scrutiny of records of mining lease maintained in DL&LROs, Birbhum and Paschim Medinipur revealed that they did not maintain the register of mining lease as prescribed in the MM Rules. Due to non-maintenance of mining lease register audit could not verify the following:

1. Date of commencement of lease, date of possession, period of lease and date of expiry of lease;
2. Raising of minor minerals and assessment of royalty and cess, realisation of royalty, cess, dead rent, surface rent, water rate etc. and mining dues remaining unrealised; and
3. Prayer for renewal of lease, surrender of lease, date of renewal and further period of lease.

Due to non-maintenance of mining lease register, the DL&LROs could not watch the dates of expiry of lease, assessment and demand of royalty/cess and

¹¹⁵ Four block offices.

¹¹⁶ Two block offices.

¹¹⁷ One block office and two sub-division offices.

¹¹⁸ Three sub-division offices.

¹¹⁹ Specifying serial number, name of applicant and address, date of application, situation and boundaries of the land, land schedule, name, estimated area, name of the mineral or minerals for which the lease has been granted, date of the grant of lease, period from which granted, renewed or extended, application fee paid, amount of security deposit paid, the royalty and dead rent payable, other rents payable, particular of disposal or refund of security deposit, date of assignment / relinquishment / cancellation / expiry etc.

realisation of mining dues. Also, no action in respect of fresh lease or renewal of lease could be taken within the prescribed time.

After this was pointed out (June and July 2015), ADM and DL&LRO, Birbhum assured (June 2015) that register would be maintained. ADM and DL&LRO, Paschim Medinipur stated (July 2015) that preparation of the register was in progress.

LRC in the Exit Conference (October 2015) stated that the register of mining lease was being maintained from September 2015 onwards which would be verified in Audit.

6.4.27 Non-establishment of check posts and weighbridges

Rule 5 of the MPIMTS Rules, 2002, provides for establishment of check posts, barriers and weighment and inspection of minerals in transit to prevent illegal transportation of minerals.

Test check of the records of DL&LROs, North 24 Parganas, Burdwan and Paschim Medinipur revealed that no check posts have been established for inspection of minor minerals in transit. Further, no weighbridges to measure the quantity of minerals being transported have been set up since the issue of the above Rules. In the absence of check posts, weighbridges and regular checking, the chances of leakage of revenue could not be ruled out.

LRC in the Exit Conference (October 2015) stated that the proposal for establishment of check post had already been sent to the authority concerned but did not provide copy of the proposal or any other details.

6.4.28 Conclusion

The Performance Audit noticed various system deficiencies such as multiplicity of departments for assessment and collection of revenue; absence of provisions in the rules related to inspection at the place of excavation; absence of a system of cross verification with Central organisations/other State Government departments; absence of provision prescribing rate of interest; etc. Audit also noticed various compliance deficiencies like non-monitoring of the revenue collected by other agencies, non/short levy and realisation of royalty, cess, and dead rent, etc. There were weaknesses in the internal control mechanism with regard to non-maintenance of registers, non-maintenance of reports/returns, lack of system to keep a watch over timely disposal of expired lease applications and non-establishment of checkpoints and weighbridges.

6.4.29 Summary of recommendations

Government may consider:

- vesting powers of fixing rates and collection of revenue from various minor minerals, as far as possible, in one department;
- making specific provisions in MPIMTS Rules regarding inspection and checking of minor minerals at the place of excavation;
- framing specific provisions for cross-verification of data relating to royalty/cess with data of other executing agencies;

- building a database of mining leases granted to monitor expiry of lease and initiate action for renewal/grant of fresh leases.

The LRC in the Exit Conference (October 2015) stated that the Department broadly agreed with the recommendations and requested the C&I Department for incorporation in the relevant rules.

