

CHAPTER-VI OTHER TAX AND NON-TAX RECEIPTS

6.1 Results of Audit

Test check of records in the offices of the Commissioner of Geology and Mining, Chief Electrical Inspector and Collector of Electricity Duty, Operation and Maintenance Divisions of Electricity Distribution Companies, Director of Petroleum and various departmental officers relating to Electricity Duty and Mining Receipts in the State during the year 2015-16 revealed under-assessment and other irregularities involving ₹ 27.12 crore in 53 cases, which fall under the following categories:

Sl. No.	Category	No. of cases	Amount (₹ in crore)
	Mining Receipts		
1.	Non/short levy of dead rent/surface rent	14	1.09
2.	Non/short levy of royalty/interest	4	0.15
3.	Other irregularities	26	4.55
	Total	44	5.79
	Electricity Duty		
1.	Short levy of Electricity Duty and other irregularities	5	0.16
	Director of Petroleum		
1.	Non/ short levy of royalty/ dead rent/ stamp duty and registration fees	3	21.16
2.	Other irregularities	1	0.01
	Total	4	21.17
	Grand Total	53	27.12

During the course of the year, the Departments accepted and recovered under-assessment and other irregularities of ₹ 2.45 crore in 69 cases, which were pointed out in audit during 2015-16 and earlier years.

A few illustrative audit observations involving ₹ 58.83 crore are mentioned in the succeeding paragraphs.

Energy and Petrochemicals Department

6.2 Non/ short levy of dead rent

Rule 13(2) of the Petroleum and Natural Gas Rules, 1959 stipulates for the payment of applicable fixed yearly dead rent¹ by a lessee to the Central or State Government as the case may be. Further, Rule 14 of the Rules *ibid*, stipulates for the payment of royalty by a lessee in respect of any mineral mined from the leased areas at the specified² rates. The lessee is, however, liable to pay either the dead rent or the royalty, whichever is higher in amount.

During test check of records of the Director of Petroleum (DoP), Gandhinagar for the period 2013-14 and 2014-15, we observed that out of total five leases granted to ONGC at five different sites, in respect of three sites, though the lessee did not extract any mineral, dead rent was not demanded. In respect of remaining two sites, though dead rent was higher than the royalty paid, differential dead rent was not demanded. This also includes one site³ wherein ONGC has already started production (2014-15) though formal order for grant of lease has not been issued. Thus, there is a non levy of dead rent of ₹ 52.27 lakh excluding interest.

After we pointed this out, the DoP stated (February 2016) that dead rent of ₹ 22.29 lakh had been recovered from ONGC in respect of four sites. In respect of one site⁴, an issue regarding payment of royalty on pre-discount price was involved and the matter was *sub-judice*. Hence, the royalty was recovered on post-discount price, however, the issue of recovery of dead rent for this site would be taken up after finalisation of the case. In respect of remaining one site, recovery of dead rent will be taken up after issue of formal order for grant of lease by DoP.

6.3 Stamp duty and Registration fees on lease deeds

The State Government grants land on lease for the mining activity and the order granting mining lease stipulates for the execution of lease deed by the lessee in this regard. Section 17(d) of the Registration Act, 1908 requires that the deeds conveying leasehold rights on immovable property for any term exceeding one year should be registered compulsorily. Section 27 read with Article 30 of the Schedule I of the Gujarat Stamp Act, 1958 provides for the levy of stamp duty in case of lease of mines in which royalty or share of produce is received as rent or part of rent. Further, as per the Circular dated 4.9.1979 of the Superintendent of Stamps, Gujarat, in case of lease of mines, stamp duty will be levied on the aggregate of the annual dead rent, estimated annual royalty payable during first year, surface rent and security deposit.

¹ The Petroleum and Natural Gas Rules, 1959 specify the rate of ₹ 100 per hectare or part thereof for the first 100 sq km and ₹ 200 per hectare for the part of more than 100 sq. Km.

² The Schedule to the Oilfields (Regulation and Development) Act 1948 specifies the rate of royalty.

³ Varsoda Halisa Ext-1

⁴ Varsoda Halisa

During test check of records of the Director of Petroleum (DoP), Gandhinagar for the period 2011-12 to 2014-15, we observed that in 27 cases, though the mining leases were renewed / granted to the four lessees⁵, the lease deeds had not been executed. The Department stated that execution of lease deeds had been pending due to certain queries raised by ONGC for considering both dead rent and royalty for calculation of stamp duty instead of considering either dead rent or royalty which was higher. Accordingly, the Department had made (July 2015) a reference to Revenue Department for issue of guidelines regarding calculation of stamp duty. The stamp duty and registration fee recoverable as per the circular issued by the Department amounted to ₹ 57.50 crore.

After we pointed this out, the DoP stated (August 2015) that comments of Revenue Department on this issue are still awaited (October 2016). Thus, it would be seen from the above that the case relating to the payment of stamp duty and registration fees has been pending for the last five years. The reference in this context made to the Government by the Department after a lapse of four years is pending since last one year.

The Government may consider expediting the decision for levy of stamp duty so that the amount in question is recovered.

Industries and Mines Department

6.4 Non/ short levy of royalty

Section 9 of the Mines and Minerals (Development and Regulations) Act, 1957 and Rule 21 of the Gujarat Minor Mineral Concession Rules, 2010 read with Circular of July 2005 issued by the Industries and Mines Department stipulated the payment of quarterly royalty in advance at the prescribed rates in respect of any minor mineral removed or consumed from the leased area at the prescribed rates in respect of each lease. In case of delay in payment of royalty, interest⁶ is also chargeable.

a) Short levy of royalty on sand

During test check of the Demand and Collection Registers of the office of the Assistant Geologist, Gandhinagar for the period 2009-10 to 2013-14, we noticed (July 2014) in nine cases that royalty amounting to ₹ 156.89 lakh was leviable on removal of ordinary sand, a minor mineral, from the leased area. However the lessees had paid advance royalty of ₹ 121.38 lakh only. No demand for the differential amount was raised by the Department. The Department failed to ensure recovery of royalty in advance. This resulted in short levy of royalty of ₹ 35.51 lakh.

⁵ Oil and Natural Gas Corporation Ltd. (ONGC), GSPC and GAIL, GSPC, Joshi Technologies Limited

⁶ simple interest at the rate of 18 *per cent* per annum

We pointed out these cases to the Department in July 2014. The Department accepted and recovered ₹ 21.44 lakh in six cases. Details of recovery in remaining cases are awaited (October 2016).

b) Non/ short levy of royalty for manufacture of bricks

Industries and Mines Department vide their Notification dated 1 January 1999 fixed lump sum rates of royalty for manufacture of bricks. The rates were further revised in January 2010 and June 2012.

During test check of returns and Demand and Collection Registers of two Assistant Geologists⁷ for the period 2009-10 to 2013-14, we noticed (July 2014 and March 2015) that 86 brick manufacturers had neither paid royalty of ₹ 27.28 lakh in advance nor was it levied by the District Geologists. Besides adoption of incorrect rates in one case resulted in short levy of royalty of ₹ 0.77 lakh. This resulted in non/ short levy of royalty of ₹ 28.05 lakh.

We pointed out these cases to the Department in July 2014 and March 2015. The Department had accepted and recovered ₹ 9.85 lakh in 38 cases. Details of recovery in remaining cases are awaited (October 2016).

6.5 Non/ short levy of dead rent

Rule 21 (4) of Gujarat Minor Mineral Concession Rules, 2010 stipulates that where the royalty paid during a year in respect of a minor mineral is less than the dead rent payable, only the difference between the two amounts shall be payable as dead rent. In case of delay in payment of dead rent, interest⁸ is also chargeable. Rule 42 of Gujarat Minor Mineral Concession Rules, 2010 stipulates that the lease shall be liable to cancel if the lessee ceases to work the quarry for a continuous period of one year.


During test check of the Demand and Collection Registers of the offices of two Assistant Geologists⁹ for the period 2009-10 to 2013-14, we noticed (September 2014 and October 2014) in 23 cases of minor minerals namely black trap, ordinary sand and lime stone that either the lease holders did not extract any minerals from the leased area or the royalty payable was less than dead rent payable. They were liable to pay dead rent or differential amount between dead rent and royalty paid. However, no demand for the same was raised by the Department. This resulted in non/ short levy of dead rent of ₹ 17.60 lakh. Interest was also chargeable for delayed payment. Besides, out of 23 cases, in 10 cases, the leases had remained idle for a period exceeding one year and therefore, leases were liable to be cancelled as per the provisions of Rule 42 of Gujarat Minor Mineral Concession Rules, 2010.

⁷ Ahmedabad and Gandhinagar

⁸ Under Rule 72, simple interest at the rate of 18 per cent per annum

⁹ Dahod and Rajkot

After this being pointed out, the Department accepted and recovered ₹ 8 lakh in 17 cases. Details of recovery in remaining cases are awaited (October 2016).



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