

CHAPTER VII: NON-TAX RECEIPTS

Section A: Non-ferrous Mining and Metallurgical Industries



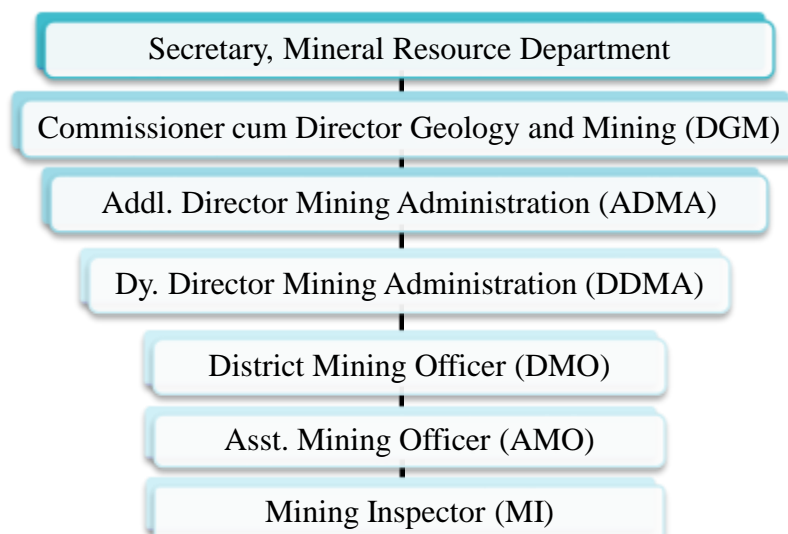
7.1 Tax administration

The mining receipts are administered under the provisions of:

- Mines and Minerals (Development and Regulation) (MMDR) Act, 1957;
- Mineral Concession Rules (MC), 1960;
- Chhattisgarh Minor Mineral Rules (CMMR), 1996;
- The Chhattisgarh Minerals (Mining, Transportation and Storage) Rules, 2009; and
- Chhattisgarh (*Adhosanrachna vikas evam paryavran*) *Upkar Adhiniyam*, 2005

Secretary, Mineral Resources Department is responsible for administration and implementation of the related Acts and Rules in the Mineral Resources Department. The Commissioner-cum-Director Geology and Mining (DGM) is the head of the Mineral Resources Department who is assisted by one Additional Director Mining Administration (Addl. DMA), 26 District Mining Officers (DMO), 19 Assistant Mining Officer (AMO) and 65 Mining Inspector (MI).

Chart 7.1: Organisational setup



7.2 Internal Audit

The Internal Audit Wing (IAW) of a Department is a vital component of its internal control mechanism and is generally defined as control of all controls. It enables the organisation to ensure itself that the prescribed systems are functioning reasonably well.

An Internal Audit Wing (IAW) functions under the control of DGM. The wing is headed by Joint Director (Finance). As on 31 March 2016 one auditor was posted against the sanctioned post of three auditors. During the year 2015-16, the wing planned 16 units for inspections and covered all the units. However no information regarding the issue of inspection reports and the compliance of the observation made by IAW have been provided by the Department.

7.3 Results of Audit

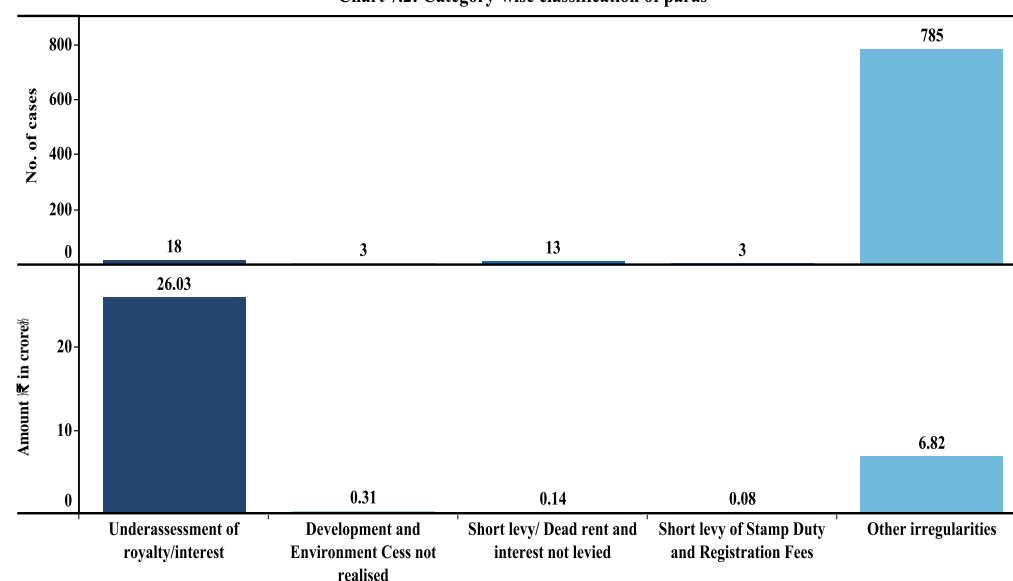
In year 2015-16, we test checked records of seven¹ out of 18 Mining offices of Mineral Resources Department and found underassessment of royalty and interest, short levy/realisation of stamp duty and registration fees, short/not levy of dead rent and interest and other irregularities etc. amounting to ₹ 33.38 crore in 822 cases, which fall under the categories as described in **Table 7.1**:

Table 7.1: Results of Audit

(₹ in crore)

| Sl. No. | Category | No. of cases | Amount |
|--------------|---|--------------|--------------|
| 1. | Underassessment of royalty/interest | 18 | 26.03 |
| 2. | Short levy of Stamp Duty and Registration Fees | 3 | 0.08 |
| 3. | Short levy/ Dead rent and interest not levied | 13 | 0.14 |
| 4. | Development and Environmental Cess not realised | 3 | 0.31 |
| 5. | Other irregularities | 785 | 6.82 |
| Total | | 822 | 33.38 |

Chart 7.2: Category-wise classification of paras



¹ DMO, Janjgir-Champa; DMO, Kawardha; DDMA, Korba; DMO, Koriya; DMO, Mahasamund; DDMA, Raigarh and DMO, Rajnandgaon

During the year 2015-16, the Department accepted underassessment and other deficiencies of ₹ 15.42 crore in 504 cases.

A few illustrative cases involving ₹ 14.93 crore are discussed in the following paragraphs.

7.4 Short realisation of royalty on coal due to incorrect application of coal prices

Royalty was calculated as per rate of “power utilities” instead of “for sectors other than power utilities” resulted in short realisation of royalty amounting to ₹ 14.14 crore.

According to Section 9(1) of MMDR Act, 1957 every lessee is liable to pay royalty in respect of minerals removed/consumed from the lease area at the rate specified in the Second Schedule. As per the notification (May 2012) the rate of royalty on coal shall be 14 *per cent ad valorem* of the price of the coal declared by Coal Controller of India for power utilities and for sectors other than power utilities as the case may be. Further as per the Central Statistics Office, Government of India (GoI) Publication (2015-16) Energy Statistics defines “non-utilities” as an Independent Power Producer (IPP) which is not a public utility but which own facilities, to general electric power for sale to utilities and end users.

During test check of monthly returns of production and dispatch of coal of three lessee out of seven lessee (December 2015) in the office of DDMA, Raigarh we noticed that a lessee, M/s Jindal Steel and Power Limited (JSPL), Raigarh fed the Run of Mine (ROM)² coal to Washery plant and dispatched 1.17 crore MT of coal middlings (May 2012 to March 2015). The coal was to be used for the production of sponge iron and for captive power generation as understood from the coal allocation letter of Ministry of Coal, GoI (January 2006) and environmental clearance letter of Ministry of Environment and Forest (MoEF), GoI (February 2014) along with the Annual Reports of the lessee for the year 2012-13 and 2013-14.

The royalty for middlings was to be calculated at rates “for sectors other than power” utilities as the power is used in producing sponge iron. But DDMA assessed the royalty as applicable to power utilities sector. Thus calculating at the lowest rate (G-17 grade) applicable for “sectors other than power utilities” royalty amounting to ₹ 85.46 crore was payable by the lessee. As against this, DDMA wrongly assessed the royalty amounting to ₹ 71.33 crore as applicable to power utilities sectors. Thus determination of royalty on the basis of power utilities companies instead of “sectors other than power utilities” resulted in short realisation of royalty amounting to ₹ 14.14 crore as detailed in *Appendix 7.1*.

During Exit Conference, the Government replied (October 2016) that the demand for royalty as per the price of “sectors other than power utilities” have been raised from the lessee.

² Run of mine coal is coal comprising of all sizes comes out of the mine without any crushing or screening Annual Report of JSPL.

7.5 Short realisation of royalty on coal due to wrong application of rate of royalty

Royalty rate on coal not calculated as per new grading resulted in short realisation of royalty of ₹ 27.29 lakh and interest of ₹ 25.31 lakh.

According to Section 9(2) of MMDR Act, 1957 the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. As per Rule 64 A of the MCR, 1960 if the lessee fails to pay royalty on the due date, he shall be liable to pay interest at the rate of 24 per cent per annum from the 60th day of the due date of payment till the date of payment. The Coal Controller, Government of India vide its notification (January 2012) had stated that the rate of royalty will be calculated by adding specific and *ad valorem* rate as per the Gross Calorific Value (GCV). The specific component of 5200-5500 GCV is ₹ 90 per MT.

During test check of monthly returns of production and dispatch of coal of three lessee out of seven lessee (November 2015) in the office of DDMA, Raigarh, we noticed that a mineral lessee, M/s Monnet Ispat dispatched 1.36 lakh MT of G-7 grade of coal between January 2012 and May 2012. As per the grade of G-7 coal the rate of royalty is ₹ 176 per MT, whereas the DDMA determined the rate of royalty as mentioned in the table below.

Table 7.2: Calculation of Royalty

| UHV | GCV band | Grade | Pit head ROM price for the period (per MT) | Applicable Rate | | | Applied by DDMA, Raigarh | | |
|-----------|-----------|-------|--|-----------------|-------------------------|-----------------|--------------------------|-------------------------|-----------------|
| | | | | Fixed component | Variable component rate | Rate of royalty | Fixed component | Variable component rate | Rate of royalty |
| (1) | (2) | (3) | (4) | (5) | (6)= 5% of (4) | (7)=(5)+(6) | (8) | (9)= 5% of (4) | (10)=(8)+(9) |
| 4940-5600 | 5200-5500 | G-7 | ₹ 1720 | ₹ 90 | ₹ 86 | ₹ 176 | ₹ 70 | ₹ 86 | ₹ 156 |

This resulted in short levy of royalty amounting to ₹ 27.29 lakh as detailed in *Appendix 7.2*. Further liability of interest of ₹ 25.31 lakh as per provision of MCR, 1960 is also leviable from the lessee.

During Exit Conference, the Government replied (October 2016) that the demand have been raised from the lessee.

7.6 Environment and Development Cess not realised from the lessee

Development and Environment Cess amounting to ₹ 11.12 lakh was not realised from the quarry lease holder.

According to Schedule I and II of Chhattisgarh (*Adhosanrachana vikas evam paryavaran*) *Upkar Niyam*, 2005 Development Cess and Environment Cess each is payable as:

- (a) ₹ five per tonne on annual despatch for the land covered under mining lease of iron and coal

(b) five *per cent* of annual royalty for mining lease except (a)

Further as per Rule 2(XXV) of CMMR, 1996 quarry lease means mining leases for minor minerals as mentioned in Section 15 of MMDR Act, 1957. Thus minor minerals are also covered under this provision and Development and Environment Cess are leviable at the rate mentioned in (b) above. Revenue and Disaster Management (RDM) Department, GoCG order (February 2016) also clarifies that minor minerals are also included under the provisions and Development and Environment cess is leviable for all quarry leases.

During test check (March 2016) of annual statement of royalty, dead rent and surface rent of quarry leases in the office of DDMA, Korba we noticed that the Department had collected royalty of ₹ 1.11 crore under minor minerals head in the year 2014-15. As per the definitions of the quarry leases in CMMR, 1996 Development and Environment Cess is also realisable from the lessee at the rate of five *per cent* each on annual royalty. But no such amount was realised by the Department. This resulted in cess being not realised of ₹ 11.12 lakh.

During Exit Conference, the Government stated (October 2016) that as the Cess was levied as per the order of RDM Department, the cess is to be realised by the RDM only.

Reply is not acceptable as the revenue collecting department has to charge the cess applicable for example, the responsibility of collection of education cess lies with the Income Tax Department. Hence the responsibility of collecting cess will be with the Mining Department only.

7.7 Undue benefit to the lessee for delayed payment of Environment Cess and Development Cess

The lessee paid Environment cess and Development cess for the whole of the year when it is to be paid quarterly resulting to undue benefit of ₹ 14.78 lakh to lessee.

According to Rule 5 of Chhattisgarh (*Adhosanrachana vikas evam paryavaran*) *Upkar Niyam*, 2005, development cess and environment cess shall be paid in four equal installments on the last day of each quarter. Further, Rule 6(1) stipulates that in case of default, the competent authority may impose penalty upto three times of cess after giving fifteen day of notice for reasonable opportunity of being heard.

We found (January 2016) during test check of records of DMO, Rajnandgaon that M/s Sarda Energy and Minerals Ltd., Raipur had dispatched 1.41 lakh MT of iron ore during the year 2014-15. The lessee paid ₹ 14.09 lakh (April 2015) on account of environment cess and development cess collectively for all the four quarters of 2014-15. Thus 49,256.31 MT³ of iron ore was dispatched (between April 2014 and December 2014) for which the lessee did not pay cess on the last day at the end of the first three quarters. As per provisions of above rule DMO should have issued fifteen day notice after giving due reasonable opportunity of being heard to the lessee and levy

³ 1,40,924.32 MT – 91,668.01 MT (January 2015 to March 2015) for which cess was paid on time.

penalty amounting to ₹ 14.78 lakh⁴ for the delay payment of cess (April 2014 to December 2014). But the DMO over looked the fact allowed the payment of cess (April 2015) for all quarters in one lumpsum without imposing any penalty.

During Exit Conference, the Government stated (October 2016) that as per the rule, the Cess has to be calculated on the basis of the annual dispatch of iron and coal as mentioned in the Schedule II, whereas as per Rule 5, cess is to be realised in each quarter. Thus ascertaining the annual dispatch in advance and realising cess on it is not possible. Further, the rule specifies that the amount of penalty is to be realised after giving 15 day notice for reasonable opportunity of being heard.

The reply of the Department is not acceptable as the DDMA should have taken necessary steps for realisation of cess on the basis of dispatch for each quarter. Further initiation for realisation of cess as per time schedule could have been taken up by the Department by issuing demand notice. The inconsonance in both the rules can be brought to the notice of the higher authorities and rectification can be done in the rules, so that the rules are not contradictory.

Section B: Forestry and Wild Life (Receipts)



7.8 Tax administration

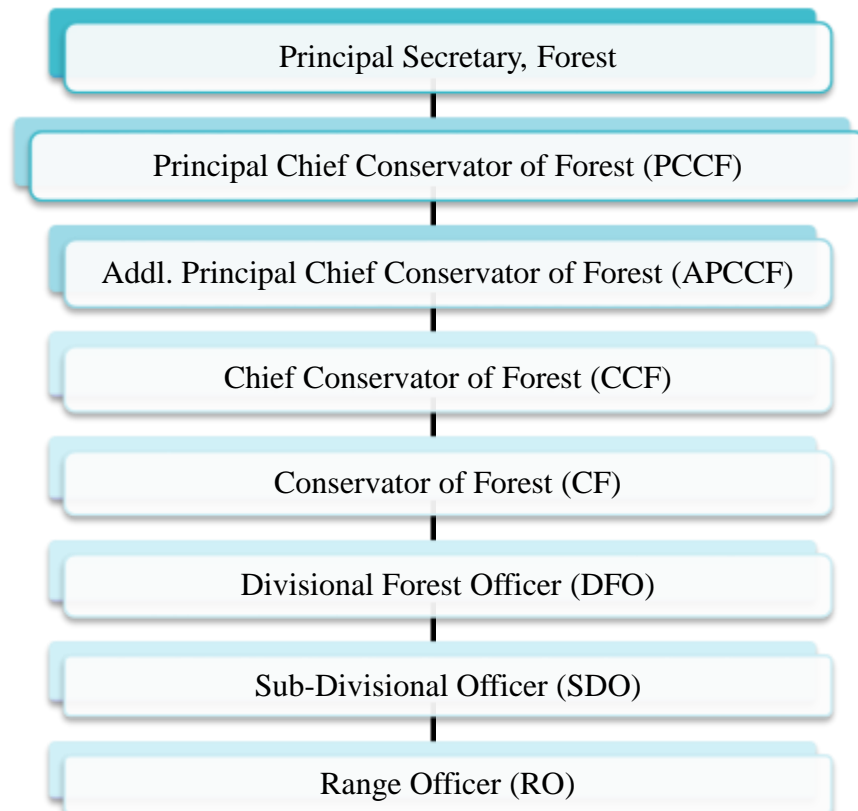
The receipts of the Forest Department are administered under the provisions of:

- Indian Forest Act, 1927 and Rules made thereunder;
- Chhattisgarh *Van Upaj (Vyapar Viniyaman) Adhiniyam*, 1960 and Rules made thereunder;
- Forest Financial Rules;
- National Working Plan Code 2004; and
- Departmental instructions, executive orders, circulars etc. issued from time to time.

⁴ Development Cess-49,256.31 MT * ₹ 5* 3 times and Environment Cess-49,256.31 MT * ₹ 5* 3 times= ₹ 14,77,690

The Forest Department functions under the Principal Secretary (Forest). The Principal Chief Conservator of Forests (PCCF) heads the Forest Department who is assisted by eight Additional PCCFs (APCCFs) and sixteen Chief Conservators of Forests (CCFs) at Headquarters. The forest area in the State has been divided into six circles each headed by a Conservator of Forests (CF). These circles have been further divided into Forest Divisions which are administered by the Divisional Forest Officers (DFO) who is assisted in field by the Sub Divisional Forest Officers (SDO) and Range Officers (RO).

Chart 7.3: Organisational set up



7.9 Internal Audit

Internal Audit is a vital component of the internal control mechanism and enables an organisation to assure itself that the prescribed systems are functioning reasonably well.

An Internal Audit Wing (IAW) headed by Accounts Officer and is assisted by five auditors. As on 31 March 2016 against sanctioned post of five auditors, only three auditors were posted. During 2015-16 the Wing planned 17 units and conducted audit of all the 17 units raising 47 observations involving ₹ 4.95 lakh. Inspection Reports of all the units have been issued, but no compliance report of the observation has been received. This shows the lack of seriousness of the subordinate units towards the internal audit.

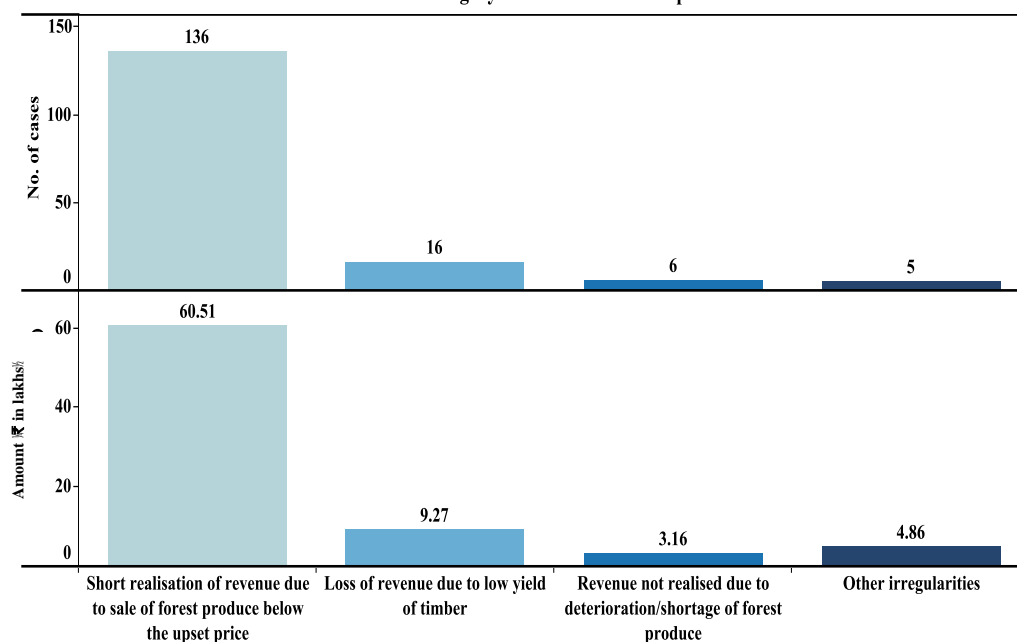
7.10 Results of Audit

In 2015-16, we test checked the records of six⁵ out of 60 offices which revealed short realisation of revenue due to sale of forest produce below upset price, short/not realisation of revenue due to deterioration/ shortage of forest produce, low yield of timber etc. involving ₹ 77.80 lakh in 163 cases, which fall under the following categories as mentioned in the **Table 7.3**:

Table 7.3: Results of Audit

| (₹ in crore) | | | |
|--------------|--|--------------|-------------|
| Sl. No. | Category | No. of cases | Amount |
| 1. | Short realisation of revenue due to sale of forest produce below the upset price | 136 | 0.61 |
| 2. | Revenue not realised due to deterioration/shortage of forest produce | 6 | 0.03 |
| 3. | Loss of revenue due to low yield of timber | 16 | 0.09 |
| 4. | Other irregularities | 5 | 0.05 |
| Total | | 163 | 0.78 |

Chart 7.4: Category-wise classification of paras



During the course of the year, the Department accepted the observations of ₹ 16.15 lakh in 24 cases.

A case involving ₹ 33.74 lakh are discussed in the succeeding paragraph.

⁵ DFO, Bastar; DFO, Dhamtari; DFO, Katghora; DFO, Kondagaon (South); DFO, Marwahi and DFO, Rajnandgaon

7.11 Sale of forest produce below *nistar* value

The rates of fuel stacks and poles sold in auctions were below the *nistar* rates. This resulted in loss of revenue amounting to ₹ 33.74 lakh.

Market prices for sale of fuel stacks and poles are published in *Nistar Patrika* of each division for every calendar year⁶. *Nistar* rates are the lowest and subsidised rates of forest produce (bamboo/poles/fuel stacks). Villagers residing within 5 kilometers periphery of forest area can only purchase the fuel stacks through *Nistar/Consumer Depots*. *Nistar* rates are fixed by deducting all kinds of expenses on felling, collection, depots etc. from the commercial value⁷ of the produce. Whereas, upset price⁸ is the minimum price of the forest produce at which the auction begins. Upset price is set by Chief Conservator of Forests (CCFs) taking the average sales value in auctions for the previous six months along with the incidental expenses like transportation charges etc. incurred during that period and the margin of profit. Thus, the Upset price of the forest produce should not be less than the *Nistar* Value which does not account for the profit margin.

7.11.1 Sale of fuel stacks in auctions at price lower than *nistar* value

During scrutiny of *parinam patrak*⁹ of the auctions of the two Divisional Forest Offices (DFOs), we noticed that the fuel stacks were sold in auctions less than their sale price at *Nistar* depots. These fuel stacks were put to auction one to five times within six months of their introduction in the auctions and were sold below the *Nistar* rates as shown in the **Table 7.4**:

Table 7.4: Details of loss of revenue due to sale of fuel stacks through auctions

(₹ in lakh)

| Sl. No. | Name of Division/ Month of audit | Period of auction | No. of fuel stacks | No. of auctions | Value of fuel stack as per <i>nistar</i> value | Sale value realised in auctions | Loss of revenue |
|---------|----------------------------------|-----------------------------|--------------------|-----------------|--|---------------------------------|-----------------|
| 1. | Dhamtari (January 2016) | May 2013 to September 2013 | 6,358 | 9 | 130.97 | 117.84 | 13.13 |
| 2. | Katghora (March 2016) | June 2014 to September 2015 | 4,217.5 | 6 | 86.86 | 73.64 | 13.22 |
| | Total | | 10,575.5 | 15 | 217.83 | 191.48 | 26.35 |

⁶ *Nistar* Rates for the calendar years 2012, 2013 and 2014 in DFO, Dhamtari was ₹ 1,999, ₹ 2,000 and ₹ 2,150 and in DFO, Khatgora for 2014 and 2015 was ₹ 1,991 and ₹ 2,071 per fuel stack respectively.

⁷ Commercial value is the value of forest produce realisable by sale in the market.

⁸ Upset price is the reserve price of each forest produce below which it cannot be sold during its first auction and it is fixed by Chief Conservator of Forest (CCF).

⁹ *Parinam Patrak* is the lot wise statement prepared by the forest division mentioning the sale value realised during the auctions.

From the above table it is clear that in 15 auctions, 10,575.5 fuel stacks were sold at ₹ 1.91 crore. The value of these fuel stacks as per *nistar* rates were ₹ 2.18 crore. Since these fuel stacks were not receiving the bid value in the first and subsequent auctions, the Department should have disposed of these forest produce through *nistar*/Consumer Depots. Thus, resorting to sale of fuel stacks at lower rates within six months of introduction in the auction instead of *nistar*/consumer depots resulted in loss of revenue amounting to ₹ 26.35 lakh.

After this was pointed out in the audit (January 2016), DFO, Dhamtari replied (January 2016) that sale of fuel stacks were made below their upset prices as per the departmental instructions of March 2005 and there was no loss of revenue. DFO, Katghora replied (March 2016) that fuel stacks were put in auctions after approval of Conservator of Forests (CF). The fuel stack were not sold as expected price was not received during the first and second auctions. Thereafter, sale of fuel stacks through auctions was done as per instructions of Department (March 2005).

Reply is not acceptable as the sale through auction is done with the motive of getting competitive rates and higher revenue collection and it seems that in some of the cases, the price has been less than the rates of direct sale even in first auction. If the rates received during the auctions were lower than the rates of direct sale, stacks should have been sold through consumer depots instead of auctions. However, even after receiving lower rates during auctions, stacks were not put for direct sale resulting in loss of revenue of ₹ 26.35 lakh to the Government.

The matter was reported (May 2016) to the Government for their comments and their reply is awaited (November 2016).

7.11.2 Fixation of upset prices and sale of poles below nistar value

During scrutiny of *parinam patrak* of auction in the office of Divisional Forest Officer (DFO), Dhamtari (January 2016), we noticed that during the period between May 2013 and January 2015, 117 lots having 11,702 poles were kept for sale in seven auctions¹⁰ in Nagari Depot. The *nistar* value was ₹ 24.40 lakh and upset price of these lots was ₹ 15.23 lakh which was ₹ 9.17 lakh less than their *nistar* value. The sale price obtained from the auction of these poles was ₹ 17.01 lakh. Thus, lower fixation of upset price of poles than that of their *nistar* values led sale of poles below their *nistar* value, which resulted in loss of revenue amounting to ₹ 7.39 lakh.

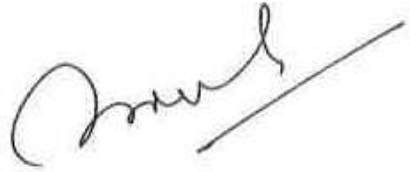
After this was pointed out in the audit, DFO replied (January 2016) that upset price is fixed on the basis of average sale prices of previous six months, while *nistar* rates are fixed by the Chief Conservator of Forest (CCF) once in a calendar year. Though there is difference in both the rates, no loss has been incurred to the Government.

Reply is not acceptable as the upset prices were fixed and sale were made at the rates lower than the *nistar* rates which is the lowest rate. This indicates the failure of the Department to fix the upset price upto the *nistar* value. The

¹⁰ 15-05-2013; 16-08-2013; 12-06-2014, 10-07-2014, 10-09-2014, 13-11-2014 and 12-01-2015

purpose of auction is to obtain the optimum revenue through sale and thus sale prices in the auctions should not be less than the *nistar* value of the forest produce.

The matter has been reported (May 2016) to the Government for their comments and their reply is awaited (November 2016).



Raipur
The 02 FEB 2017

(BIJAY KUMAR MOHANTY)
Accountant General (Audit)
Chhattisgarh

Countersigned



New Delhi
The 07 FEB 2017

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India