

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.

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.

6.3 Results of audit

In 2016-17, test check of the records of 13 units relating to mining receipts showed underassessment of tax and other irregularities amounting to ₹ 92.23 crore in 119 cases as given in **Table 6.1**.

Table - 6.1
Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	70	11.30
2.	Non/short assessment/levy/realisation of royalty and cess	36	11.15
3.	Other cases	13	69.78
Total		119	92.23

During the course of the year, the Department accepted underassessment and other deficiencies in 107 cases of ₹ 18.92 crore, of which 104 cases involving ₹ 18.65 crore were pointed out during the year 2016-17 and the rest in earlier years. An amount of ₹ 22.19 lakh was realised in three cases during the year.

A few illustrative cases involving ₹ 12.61 crore are discussed in the following paragraphs.

6.4 Price of brick earth not recovered/short recovered

Price of brick earth of ₹ 9.89 crore was not recovered/short recovered in 843 cases on extraction of brick earth without valid permit.

Rule 4(1) (a) of West Bengal Minor Minerals (WBMM) Rules, 2002 prescribes that no person shall undertake any mining operation except under the terms and conditions of a mining lease or quarry permit. Under Section 21(5) of Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 and Rule 33(5) of the WBMM Rules, 2002, no person is entitled to undertake mining operations without a lease or valid permit. In the event of violation, the State Government is empowered²⁸⁷ to recover either the minerals raised unlawfully or the price thereof. Accordingly, the State Government fixed the market price of brick earth at ₹ 30 per 100 cubic feet (cft) for 1981 with an increase of ₹ 1.50 per 100 cft each year²⁸⁸. The revised order issued in March 2015 fixed the price of earth at ₹ 51 per 100 cft with effect from 2015-16.

Audit scrutinised²⁸⁹ relevant records²⁹⁰ and files in office of eight²⁹¹ District Land and Land Reforms Officers (DL&LROs). In 843 cases²⁹², 787 brick field owners had extracted 18.42 crore cft of brick earth between 2013-14 and 2015-16. This extraction was carried out without valid permit²⁹³. For such extraction, price of brick earth of ₹ 13.29 crore was recoverable from these brick field owners.

This has been shown in the following table:

Table - 6.2
Price of brick earth not recovered/short recovered

							(₹ in crore)
Sl. No.	Nature of irregularities	No. of cases	No. of brick field owners	Quantity of brick earth extracted	Price of brick earth to be recovered	Price of brick earth recovered	Price of brick earth not recovered/short recovered
1.	Authorities did not recover price of brick earth from brick field owners on extraction of brick earth	446	429 ²⁹⁴	9.46 crore cft	6.75	Nil	6.75
2.	Authorities recovered price of earth short on extraction of brick earth	397	360	8.96 crore cft	6.54	3.40	3.14
Total		843	787	18.42 crore cft	13.29	3.40	9.89

²⁸⁷ Apart from other penal actions like seizure, confiscation, eviction, imprisonment etc.

²⁸⁸ By an order passed in September 1984.

²⁸⁹ Between December 2015 and September 2016.

²⁹⁰ Brick field registers.

²⁹¹ DL&LROs and period involved in observation: Bankura-2013-15, Burdwan (East)-2013-15, Burdwan (West)-2014-16, Howrah-2014-16, Malda-2013-16, Murshidabad-2014-15, Paschim Medinipur-2014-15 and Purba Medinipur-2013-15.

²⁹² One instance of price of earth not paid in any year constitutes one case.

²⁹³ As per interim order of Hon'ble High court Calcutta, members of Brick Field Owners' Association, were allowed to extract brick earth though they did not have valid permit for such extraction. The authorities could realise only price of earth in these cases of unauthorised extraction.

²⁹⁴ Out of these, two brick field owners were also involved in case of short realisation of price of brick earth.

No reasons were found on records for inaction on the part of the authorities.

Thus, price of brick earth of ₹ 9.89 crore was not recovered/short recovered.

Government accepted the audit observations and intimated (November 2017) realisation of ₹ 41.47 lakh in 204 cases by two²⁹⁵ DL&LROs. In the remaining cases, they did not furnish specific details in respect of realisation.

6.5 Penalty not realised

Penalty to the extent of ₹ 1.74 crore was not realised in 59 cases of shortfall in the extraction of sand/stone.

In terms of Rule 21(1) (e) of the WBMM Rules, 2002, the lessee shall extract and dispatch a 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 quantity²⁹⁶, penalty to the extent of twice the amount of royalty, which would have accrued on such shortfall, shall have to be paid by the lessee.

Audit observed (between December 2015 and March 2016) from records of office of three²⁹⁷ DL&LROs that penalty was not realised on shortfall in the extraction of sand/stone against the minimum quantity prescribed in the lease deeds. This has been shown in the following table:

Table - 6.3
Penalty not realised

(₹ in crore)

Sl. No.	Nature of irregularities	No. of lessees	No. of cases	Quantity of sand/stone prescribed	Quantity of sand/stone extracted	Shortfall in extraction	Penalty not realised
1.	Lessees extracted less quantity of sand against the minimum prescribed quantity of sand as per lease deeds.	48	52	180.69 lakh cft of sand	98.85 lakh cft of sand	81.84 lakh cft of sand	1.64
2.	Lessees extracted less quantity stone against the minimum prescribed quantity as per lease deeds.	5	7	6.06 lakh cft of stone	0.80 lakh cft of stone	5.26 lakh cft of stone	0.10
Total		53	59				1.74

No reasons were found on records for these short extraction.

Audit observed that the DL&LROs did not levy and demand penalty for short extraction. Thus, penalty to the extent of ₹ 1.74 crore was not realised.

Government accepted the audit observations and intimated (October 2017) realisation of ₹ 3.02 lakh in 56 cases by two²⁹⁸ DL&LROs. In the remaining cases, they did not furnish specific details in respect of realisation.

²⁹⁵ Paschim Medinipur and Malda.

²⁹⁶ Without any satisfactory reason.

²⁹⁷ DL&LROs and period involved in observation: Burdwan (E)-2013-15, Darjeeling-2013-15 and Murshidabad-2014-15.

²⁹⁸ Burdwan(E) and Darjeeling.

6.6 Royalty and cess on minor minerals not realised/short realised

Royalty and cess of ₹ 97.62 lakh was not realised/short realised in 105 cases on extraction of brick earth and sand from the brick field owners, the contractor and the lessees of sand.

Rule 27(1) of the WBMM Rules, 2002 provides that the prescribed authority may grant quarry permit to any person to extract any minor mineral on pre-payment of royalty at prescribed rates. Further, under the provisions of the Cess Act, 1880 (as amended in 1984), West Bengal Primary Education Act, 1973 and West Bengal Rural Employment and Production Act, 1976, holders of quarry permits are liable to pay different types of cess at prescribed rates on extraction of minor minerals.

Case records, demand and collection registers and minutes of meetings of DL&LROs with the Brick Field Owners' Associations were test checked in office of six²⁹⁹ DL&LROs. Audit observed³⁰⁰ that royalty and cess of ₹ 97.62 lakh was not realised/short realised in 105 cases from the brick field owners, the contractor and the lessees of sand. It was further seen that DL&LROs did not initiate any action to realise the dues. This has been shown in the following table:

Table - 6.4
Royalty and cess on minor minerals not realised/short realised

(₹ in lakh)

Sl. No.	Nature of irregularities	Period of extraction	No. of cases	No. of Brick field owners	Quantity of Brick earth extracted	Royalty and cess to be realised	Royalty and cess realised	Royalty and cess on minor minerals not realised/short realised
1.	Brick field owners had extracted earth without payment of royalty and cess	2014-15	23	23	40.60 lakh cft	21.93	Nil	21.93
2.	Brick field owners / contractor extracted earth and paid less royalty and cess	Between 2013-14 and 2015-16	67	62 ³⁰¹	201.16 lakh cft	107.37	58.15	49.22
3.	Lessees of sand extracted sand in 2014-15 without pre-payment of royalty and cess	2014-15	15	15	23.02 lakh cft	26.47	Nil	26.47
Total			105	100	264.78	155.77	58.15	97.62

Government accepted the audit observations and intimated (October 2017) realisation of ₹ 14.55 lakh in 31 cases by two³⁰² DL&LROs. In remaining cases they did not furnish specific details in respect of realisation.

²⁹⁹ DL&LROs and period involved in observation: Burdwan (E)-2014-15, Burdwan (W)-2014-16, Malda-2013-16, North 24 Parganas-2014-15, Paschim Medinipur-2014-15 and Purba Medinipur-2013-15.

³⁰⁰ Between December 2015 and September 2016.

³⁰¹ Involves one contractor.

³⁰² North 24 Parganas and Paschim Medinipur.