

CHAPTER-VII: NON-TAX RECEIPTS

7.1 Tax administration

At the Government level, the Principal Secretary, Mines and Petroleum, Jaipur and at the Department level, the Director, Mines and Geology (DMG), Udaipur are responsible for administration and implementation of the related Acts and Rules in the Department. The DMG is assisted by seven Additional Directors, Mines (ADM) and six Additional Directors, Geology (ADG) in administrative matters and by a Financial Advisor in financial matters. The ADMs exercise control through nine circles headed by Superintending Mining Engineer (SME).

There are 49 Mining Engineers (ME)/Assistant Mining Engineers (AME), who are responsible for assessment and collection of revenue besides prevention of illegal excavation and despatch of minerals from areas under their control. The Department has a separate vigilance wing headed by ADM (Vigilance) for prevention of illegal excavation and despatch of minerals.

7.2 Internal audit

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner and that subordinate offices are maintaining various records and registers properly and accurately besides taking adequate safeguards against non-collection, short collection or evasion of revenue.

Scrutiny of records of the DMG, Udaipur disclosed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit, the Departmental authorities were not aware of the areas of the weakness in the system which resulted in evasion or leakage of revenue. The matter is being pointed out continuously in the Comptroller and Auditor General's Audit Reports since 2011-12. However, only three out of 129 units were audited during the year 2017-18.

7.3 Results of audit

There were 137 auditable units¹ in the Departments of Mines, Geology and Petroleum. Out of these, audit selected 33² for audit wherein 13,872 cases³ of Mining Leases (ML), Royalty Collection Contracts (RCC)/Excess Royalty Collection Contracts (ERCC), cases of illegal mining/transportation of mineral, cases of recovery under Land Revenue Act, Short Term Permits (STP) existed. Out of these, audit selected 8,244 cases⁴ (approximate 59 *per cent*) wherein audit noticed 1,987 cases (approximate 24 *per cent* of sampled cases) involving

¹ Includes 35 implementing units.

² Includes eight implementing units.

³ 6,848 Mining Leases (ML); 13 Petroleum mining leases (PML); 79 Royalty Collection Contracts (RCC)/Excess Royalty Collection Contracts (ERCC); 2,994 cases of illegal mining/transportation of mineral; 534 cases of recovery under Rajasthan Land Revenue Act, 1956; 3,400 Short Term Permits and four Petroleum Exploration Licences (PEL).

⁴ 2,106 ML; 13 PML; 79 RCC/ERCC; 2,482 cases of illegal mining/transportation of mineral; 437 cases of recovery under Rajasthan Land Revenue Act, 1956; 3,123 STPs and four PEL.

₹ 605.81 crore of non-recovery/short recovery of cost of unauthorised excavated minerals, dead rent and royalty, Environment Management Fund, non-levy of penalty/interest, non-forfeiture of security deposit. These cases are illustrative and are based on a test-check carried out by us. Audit pointed out some of the similar omissions in earlier years, not only these irregularities persist but also remain undetected till next audit is conducted. The substantial proportion of errors, omissions and other related issues (approximate 24 per cent) noticed in audit indicated that the Government needed to improve the internal control system including strengthening of internal audit so that occurrence/ recurrence of such lapses can be avoided. Irregularities noticed are broadly fall under the following categories:

(₹ in crore)			
Sl. no.	Category	Number of cases	Amount
1	Paragraph on 'Audit of collection of District Mineral Foundation Trust Fund'	1	194.60
2	Non-recovery/short recovery of cost of unauthorised excavated minerals	110	230.53
3	Non-recovery/short recovery of dead rent and royalty	135	13.63
4	Non-levy of penalty/interest	203	5.45
5	Non-forfeiture of security deposit	57	11.87
6	Non-recovery/short recovery of Environment Management Fund	18	0.20
7	Other irregularities	Revenue	1,437
		Expenditure	26
Total		1,987	605.81

During the year 2017-18, the Department accepted short realisation of revenue of ₹ 21.16 crore in 2,081 cases, of which 973 cases involving ₹ 9.72 crore were pointed out in audit during the year 2017-18 and rest in earlier years. The Department recovered ₹ 9.72 crore in 1,080 cases, out of which 44 cases involving ₹ 0.39 crore were of current year and the rest were of earlier years.

On being pointed out by Audit, the Department accepted and recovered the entire amount of ₹ 1.02 crore in four cases. These cases have not been discussed in the Report.

A paragraph on 'Audit of Collection of District Mineral Foundation Trust Fund' involving ₹ 194.60 crore and a few illustrative cases involving ₹ 0.84 crore are discussed in the succeeding paragraphs.

7.4 Audit of Collection of District Mineral Foundation Trust Fund

7.4.1 Introduction

The Ministry of Law and Justice (Legislative Department) Government of India had amended (27 March 2015) the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act). Section 9B of the Act *ibid* provides for the establishment of a trust to be called the District Mineral Foundation (DMF) that would function as a non-profit body to work for the interest and benefit of persons and areas affected by mining related operations. The Act broadly outlines an amount that mining lease holders are required to pay to the DMF annually with regard to the major minerals. Accordingly, Government of India notified (17 September 2015) under the MMDR Act, the amount⁵ to be paid to DMF by the concession holders for major minerals.

Further, Section 15 of the MMDR Act empowered the State Government to make rules for regulating the functions of the DMF and to prescribe contribution amount of payment by the concession holders for minor minerals. Pursuant to this the Government of Rajasthan (GoR) notified (31 May 2016) the District Mineral Foundation Trust (DMFT) Rules, 2016 effective retrospectively from 12 January 2015. Rule 13(5) of the DMFT Rules provides that the concerned Mining Engineer (ME)/Assistant Mining Engineer (AME) shall be responsible for collection, reconciliation and cross verification of contribution to the DMFT Fund.

The total collection towards DMFT Funds from the concession holders/Royalty Collection Contractors/Excess Royalty Collection Contractors in 33 districts of the State was ₹ 1,592.53 crore as on 31 March 2018. Department intimated (April 2018) that an amount of ₹ 119.18 crore (7.48 per cent) has been incurred by the DMFTs.

7.4.2 Audit Scope and Methodology

To assess whether the collection, reconciliation and cross-verification of funds was done as per rules by Mines Department, Audit selected 11 offices⁶ out of 49 ME/AME offices. The records pertaining to the period from September 2015 to 31 March 2018 were scrutinised during April 2018 to June 2018. In addition, records maintained by the Principal Secretary, Mines and Petroleum, Jaipur and Director, Mines and Geology, Udaipur (DMG) were also examined for ensuring timely framing of Rules and execution thereof.

⁵ 30 per cent of the royalty paid in respect of mining leases granted before 12 January 2015 and 10 per cent of the royalty paid in respect of mining leases or prospecting license cum mining leases granted on or after 12 January 2015.

⁶ AME: Rishabhdeo, Salumber and Sawar; ME: Ajmer, Amet, Beawer, Bhilwara, Bijoliya, Rajsamand-I, Rajsamand-II and Udaipur.

Audit selected 50 per cent of major mineral⁷ leases, 10 per cent of minor mineral⁸ leases, Short Term Permits⁹ (STP), Brick Earth Permits¹⁰ (BEP) each and all¹¹ the Royalty Collection Contract (RCC)¹²/Excess Royalty Collection Contract (ERCC)¹³ awarded in selected ME/ AME offices for detailed scrutiny.

The matter was pointed out to the Department and reported to the Government (July 2018); Government forwarded its reply in February 2019.

Audit findings

7.4.3 Deficiencies in implementation of DMFT Rules

7.4.3.1 Delay in promulgation of the DMFT Rules, 2016

The Ministry of Law and Justice (Legislative Department) Government of India had amended (27 March 2015) the MMDR Act effective from 12 January 2015. Further, the Government of India made the Mines and Minerals (Contribution to District Mineral Foundation) Rules, 2015 effective from 12 January 2015 and prescribed (17 September 2015) the amount of contribution to be made to DMF by the lease holders.

Scrutiny of records maintained by the Principal Secretary, Mines and Petroleum revealed that the process of framing of Rules by GoR suffered from avoidable procedural delays at various stages. It notified (31 May 2016) the DMFT Rules, 2016 retrospectively with effect from 12 January 2015 after a delay of eight months from the date of notification (17 September 2015) issued by the Government of India. Further, in exercise of powers conferred by the MMDR Act and the DMFT Rules, the State Government established (9 June 2016) DMF Trusts in all 33 districts of the State.

The Hon'ble High Court of Rajasthan, Jodhpur ordered (18 December 2017) that State Government notification 31 May 2016, created and quantified liability of contribution to DMF in respect of minor mineral, therefore, the concession holders in respect of minor minerals cannot be held liable to pay the contribution to DMF prior to the date of issue of the notification. This resulted in non-collection of contribution towards Trust Fund worth ₹ 147.33 crore on despatches of minor minerals in the State from 12 January 2015 to 30 May 2016.

On being pointed out the Principal Secretary, Mines and Petroleum accepted the facts.

⁷ Major minerals include minerals such as copper, lead, gypsum, limestone (cement grade), vermiculite, wollastonite, zinc, etc. Out of 47 leases in selected offices 32 were selected for scrutiny.

⁸ Minor minerals include building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, etc. Out of 5,119 leases in selected offices 554 were selected for scrutiny.

⁹ Short term permit means a permit granted for excavation and removal of a specified quantity of a mineral within a specified period and from a specified area under Minor Mineral Rules. Out of 286 STPs in selected offices 136 were selected for scrutiny.

¹⁰ Brick Earth Permit means a permit granted for excavation of brick earth for making bricks. Out of 94 BEPs in selected offices 42 were selected for scrutiny.

¹¹ All 52 RCC/ERCC in selected offices were selected for scrutiny.

¹² 'Royalty collection contract' means a contract to collect royalty with or without permit fees and any other charges on behalf of the Government for specified mineral despatched by the quarry licensee or permit holder, from the area specified in the contract.

¹³ 'Excess Royalty Collection Contract' means a contract to collect royalty in excess of annual dead rent and any other charges as may be specified in the contract, on behalf of the Government for specified mineral despatched by the mining lessee, from the area specified in the contract.

7.4.3.2 Separate accounting sub-head not opened for collection of Trust Fund

According to Rule 13(2) of the DMFT Rules, the payment towards Trust Fund shall be collected in advance along with royalty under a separate sub-head through e-payment and deposited in the account of Trust and if any difference amount is accrued at the time of assessment of royalty, the same shall be deposited in the account of Trust immediately. A separate sub-head is essential to depict the contribution received from the lease holders in the budget document to ensure transparency and in the interest of the stakeholders. Further, it is also helpful to monitor the contribution received on the real time basis by Government.

It was noticed that the DMG requested (4 June 2016) the Principal Secretary, Mines and Petroleum, Jaipur to take necessary action in consultation with the Finance Department to open a sub-head for depositing the amount of contribution towards the DMFT Fund. The Finance Department in turn informed the Mines Department that it requested (6 May 2016) the Accountant General (Accounts and Entitlement) for opening a separate sub-head for depositing contribution towards National Mineral Exploration Trust (NMET) but the reply from the Accountant General was awaited. Procedure that may be suggested by Accountant General (Accounts and Entitlement) regarding NMET would be adopted for collection of contribution towards DMFT also. The Department collected the contribution towards Trust Fund through a centralised current bank account (11 August 2016) in a nationalised bank at Udaipur along with a non-interest bearing Personal Deposit (PD) account (August 2016) in treasury, Udaipur in the name of DMG. Thereafter in April 2017, it was decided that the contribution towards Trust Fund will be deposited in the non-interest bearing personal deposit (PD) account opened in the name of DMFT established in each district.

Audit observed that the collection of contribution towards NMET was being deposited in a separate sub-head from August 2017, however, no proposal was sent by the Finance Department to the Accountant General (Accounts and Entitlement) for opening of a separate sub-head for DMFT Fund.

The DMG, Udaipur consolidates the information regarding amount received in PD accounts to get the complete picture of DMFT Funds collected. If a separate sub-head was opened (even if under public accounts) State Government would be aware of the collection figures on real time basis.

7.4.3.3 Non-reconciliation of contribution amount with the Trust Fund

Rule 13(5) of the DMFT Rules provides that the ME/AME concerned shall be responsible for collection, reconciliation and cross verification of contribution to the DMFT and shall deposit the same in Trust account opened in any scheduled bank as decided by the Trust. They shall send periodic information to Financial Advisor/Nodal officer for proper accounting of receipts and disbursements.

Audit observed that the contribution towards Trust Fund was initially deposited by the lease holders either with the concerned ME/AME offices or directly in the centralised current bank account opened in the name of DMG in a

nationalised bank at Udaipur branch. This amount was being transferred by the DMG to the PD account opened in treasury at Udaipur.

Audit further observed that in selected ME/AME offices reconciliation of collection of contribution was not carried out with the funds deposited in the centralised current bank account. An amount of ₹ 498.17 crore was lying in the non-interest bearing PD account of the DMG as on 31 March 2018. This amount was not transferred to the concerned DMFT and the concerned districts could not use the amount.

The reasons for not disbursing the available funds and information regarding reconciliation of the disbursed funds to the DMFTs from PD account of the DMG were called for (April 2018 and October 2018), the reply is awaited (February 2019).

7.4.4 Contribution towards District Mineral Foundation Trust Fund

7.4.4.1 Non-maintenance of Demand and Collection Register for DMFT Fund

It was necessary for ME/AME offices to maintain a separate Demand and Collection Register (DCR) for DMFT Fund to ensure its proper collection, reconciliation and verification. During test check of records, it was noticed that separate registers were not maintained in eight ME/AME offices¹⁴. Scrutiny of the assessment files of leases, contract files of ERCC and Temporary Working Permission (TWP) files disclosed that in 130 cases DMFT contribution of ₹ 4.78 crore was recoverable during 31 May 2016 to 31 March 2018.

In absence of demand and collection register it could not be ensured whether ₹ 4.78 crore were paid to the DMFT Fund.

Government replied that online demand register was maintained for royalty, however, it has not replied regarding non-maintaining a separate demand and collection register for DMFT Fund or how to integrate it with the existing online register.

7.4.4.2 Lacuna in Online Management System for collection of Trust Fund

According to Rule 73 of RMMC Rules, 2017, it is mandatory for the lessee to obtain *e-rawanna*¹⁵ generated through online system. Further, Rule 13(2) of the DMFT Rules stipulates that the payment towards Trust Fund shall be collected in advance along with royalty under a separate sub-head through e-payment.

During test check of records, it was noticed that the Department was collecting royalty amount in advance (October 2017) at the time of generation of *e-rawanna*, however, provision was not made in Departmental Online Management System (OMS-IT system) to collect the DMFT amount simultaneously with royalty.

¹⁴ AME: Rishabhdeo and Salumber; ME: Ajmer, Amet, Bhilwara, Bijoliya, Rajsamand-I and Rajsamand-II.

¹⁵ As per Rule 2(1)(xlili) of RMMC Rules, 2017 *e-rawanna* is an electronically generated challan from the Departmental web portal for despatch, consumption or processing of mineral or overburden from a specified area granted under any mineral concession or permit.

Government replied that OMS-IT system is being updated for online collection of DMFT Fund amount.

7.4.4.3 Short payment of contribution towards DMFT Fund

According to notification dated 17 September 2015 issued by Ministry of Mines, Government of India the amount of contribution in respect of major mineral to be made to DMFT would be 30 *per cent* of the royalty paid in respect of mining leases granted before 12 January 2015 and 10 *per cent* of royalty paid in respect of mining leases or prospecting licence-cum mining leases granted on or after 12 January 2015. Further, as per Rule 13 of DMFT Rules in case of minor mineral the amount of contribution to be made would be 10 *per cent* of royalty paid. Furthermore, if any difference amount is accrued at the time of assessment of royalty, contribution towards Trust Fund shall be deposited in the account of Trust Fund immediately.

Scrutiny of records revealed that six MEs/AME did not ensure correct payment of contribution towards DMFT Fund by the lease holders, Excess Royalty Collection Contractors and from owners of the Brick Earth kiln as detailed below:

(₹ in crore)						
Sl. No.	ME/AME offices	Category of contributors (Number)	Period of contribution	Amount to be paid	Amount paid	Amount short paid (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	5 ME offices ¹⁶	Major mineral lease holders (11)	17 September 2015 to 31 March 2018	944.43	752.28	192.15
2.	5 ME/AME offices ¹⁷	Minor mineral lease holders (34)	31 May 2016 to 31 March 2018	0.28	0.20	0.08
3.	2 ME/AME offices ¹⁸	Excess royalty collection contractors (3)	18 July 2016 to 31 March 2018	5.87	3.77	2.10
4.	2 ME/AME offices ¹⁹	Brick earth permit holders (80)	31 May 2016 to 31 March 2018	0.11	0.01	0.10
Total				950.69	756.26	194.43

The above table shows that MEs/AME did not ensure correct payment of contribution towards DMFT Fund which resulted in short payment of contribution of ₹ 194.43 crore towards DMFT Fund.

Government replied that ₹ 62.43 lakh has been recovered in eight cases (major mineral-one case, minor mineral-three cases, excess royalty collection contractor-one case and brick earth permits- three cases). Replies in remaining cases were awaited.

Non-recovery of Trust Fund for the minerals excavated by quarry licence holders

As per Rule 3(1)(xix) of RMMC Rules, 1986 read with Rule 2(1)(xlii) of RMMC Rules, 2017 'Quarry Licence' means a licence granted for minor minerals wherein a licensee is required to pay fixed annual licence fee exclusive

¹⁶ ME: Ajmer, Beawar, Bhilwara, Rajsamand-II and Udaipur.

¹⁷ ME: Ajmer, Amet, Beawar and Udaipur and AME: Sawar.

¹⁸ ME: Rajsamand-II and AME: Sawar.

¹⁹ ME: Bhilwara and AME: Sawar.

of royalty. Royalty of mineral excavated from quarry licenced areas is collected either through royalty collection contractor or through alternative arrangement such as establishing Departmental check post. Further, a quarry licence holder is not required to submit mineral production returns to concerned ME/AME office. ME/AME office is also not obligated to finalise assessment of royalty.

According to Rule 68(1) of the RMMC Rules, 1986 read with Rule 60(1) of RMMC Rules, 2017, if the ME/AME considers it necessary to do so, with a view to prevent or check the evasion of royalty at any place, he may direct for setting up of check post or erection of a barrier at such place by an order in writing.

The ME Beawar had 84 quarry licences in its jurisdiction situated in the villages Ber, Fatekheda, Lavaya and Birathia Khurd/Kalan, *tehsil* Raipur district Pali of mineral phyllite schist/ballast/*Khanda*.

It was noticed that a RCC was executed (July 2015) for collection of royalty of the mineral excavated from the quarry licenced areas. As the DMFT Fund on minor minerals was made effective from 31 May 2016, the condition for collection of DMFT Fund was not part of the contract. The ME directed the contractor (June 2016) to execute a supplementary agreement for collection of DMFT Fund amount. But the contractor did not execute the supplementary contract and got stay from Rajasthan High Court, Jaipur for enhancement of contract amount in view of DMFT Rules. This was not vacated till the expiry of the contract period (31 March 2017). A new RCC was executed on 14 July 2017 for collection of royalty and DMFT Fund. Since the ME could not execute supplementary contract for collection of DMFT Fund from the quarry licence holders, the ME was required to collect the DMFT Fund through alternate arrangements such as establishing check post. However, no arrangements were made for collection of the DMFT Fund through check posts for the period from 31 May 2016 to 13 July 2017. Non-collection of the DMFT Fund resulted in loss to the Trust.

As the quarry holders were not required to submit returns of the despatch of mineral to the ME office, hence, the ME could not assess the mineral despatched from a particular quarry. Therefore, Audit could not calculate the amount of DMFT recoverable from the quarry licence holders.

For calculation of loss to the Trust Fund Audit requested (May 2018) the ME office to provide figures²⁰ of mineral despatched from the quarry areas as to be submitted by the Royalty Collection contractor; reply was awaited (February 2019).

Government has not furnished any reason for non-collection of DMFT Fund through establishing check post in its reply (February 2019).

²⁰ As per Rule 37-A(xiii) of RMMC Rules, 1986 read with Rule 44(13) of RMMC Rules, 2017 the Royalty Collection Contractor was required to submit the details of the mineral despatched from the contract area. However, these details did not contain quarry wise information.

7.4.4.4 Non-recovery of interest on delayed payment of Trust Fund

Rule 77 of the RMMC Rules, 2017 (Effective from 1 March 2017) provides that simple interest at the rate of 18 *per cent* shall be charged from the due date on all dues in respect of the contribution towards DMFT.

It was observed in five ME/AME offices²¹ that during March 2017 to March 2018 in seven cases, Royalty Collection Contractor/Excess Royalty Collection contractors deposited contribution towards Trust Fund belatedly for different intervals between one day and 253 days but the concerned ME/AME did not raise the demand²² aggregating ₹ 17.03 lakh for the interest payable on delayed payment of monthly instalments.

Government replied that an amount of ₹ 4.92 lakh has been recovered and action is being taken for the remaining amount.

7.4.4.5 Non-transfer of sharing contribution towards Trust Fund

Rule 13(4) of the DMFT Rules stipulates that where a mining lease falls in more than one district, the contribution towards DMFT shall be deposited in the account which is operated by the ME/AME in whose office the assessment of royalty is made. However, the total amount so received shall be proportionally allocated on the basis of area falling under each district.

- (i) It was noticed in ME Udaipur that a mining lease number 1/1995 having total area 49.48 hectares was effective under the jurisdiction of ME Sirohi. Out of total lease area measuring 49.48 hectares, an area measuring 22.065 hectares was situated in *tehsil* Kotra district Udaipur. As per information furnished by the lease holder an amount of ₹ 59.81 lakh was deposited in the centralised current bank account between 1 June 2016 and 30 April 2017 by the lease holder. However, the Department did not allocate the proportionate amount of ₹ 26.67 lakh to DMFT Udaipur. ME Udaipur also did not initiate action to transfer the proportionate amount to DMFT Udaipur.

Government replied that action is being taken for transfer of DMFT contribution.

- (ii) It was noticed in ME Beawar office that ME issued (September 2017 and January 2018) nine Short Term Permits (STP) to a firm for lifting 1.96 lakh MT ordinary earth from the area near village Railmagra, *tehsil* Raipur district Pali and 1.50 lakh MT overburden (Masonry stone) from the area near Village Khejadla, Kayabhila *tehsil* Raipur district Pali for construction of Western Dedicated Freight Corridor Rewari- Iqbalgarh Section. The firm deposited ₹ 3.58 lakh in eight STP cases in the PD account of DMFT Ajmer instead of PD account of DMFT Pali as the mineral was lifted from district Pali. Further, in one case, the firm deposited ₹ 1.15 lakh in the PD account of District Collector, Ajmer instead of the PD account of DMFT Pali. As such, the contribution towards Trust Fund amounting to ₹ 4.73 lakh was required to be transferred to the DMFT Pali.

Government replied that letter has been written to DMFT Ajmer for transferring ₹ 4.73 lakh in the account of DMFT Pali.

²¹ ME: Amet, Bijoliya, Rajsamand-I, Rajsamand-II and AME: Salumber.

²² Ranged between ₹ 0.01 lakh and ₹ 2.58 lakh.

7.4.5 Conclusion and Recommendations

The State Government framed the DMFT Rules, 2016 belatedly and did not open a separate sub-head for its accounting as per Rule. There was no provision in the IT system for depositing the Trust Fund alongwith the payment of royalty. The Department did not recover full contribution towards DMFT Fund as well as interest on delayed payment from mineral concession holders, Royalty Collection Contractor/Excess Royalty Collection Contractors and brick earth permit holders.

- *The Government may open a separate sub-head to collect Trust Fund for proper monitoring and expedite efforts to disburse ₹ 498.17 crore to the concerned DMFT after reconciliation.*
- *The Government may consider inserting an option for collection of DMFT Fund in advance along with payment of royalty in their online system and direct all ME/AME offices to maintain lease/RCC/ERCC wise Demand and Collection Register.*

7.5 Non-raising of demand for interest

Contract for collection of excess royalty²³ is awarded under Rule 32(1) of RMMC Rules, 1986 read with Rule 36(2) of RMMC Rules, 2017. Further, as per Rule 33D(1) of RMMC Rules, 1986 read with Rule 42(1) of RMMC Rules, 2017 yearly contract amount shall be recovered in equal monthly/quarterly instalments.

Furthermore, according to Rule 33D(2) of RMMC Rules, 1986 read with Rule 44(17) of RMMC Rules, 2017 the monthly/quarterly instalments due under annual contract shall be paid in advance before the due date. Interest shall be payable at the rate of 15/18 *per cent* per annum²⁴ from the due date on unpaid amount. The Government may recover these dues as arrears of Land Revenue.

During scrutiny of records of the AME Kotputli and ME Bhilwara, it was noticed that three Excess Royalty Collection Contractors²⁵, did not deposit the monthly instalments of the contract amount on due dates. The ME/AME, however, failed to raise the demand for interest against the contractors for the lapse. This resulted in non-recovery of interest amount of ₹ 60.33 lakh.

The matter was pointed out to the Department and reported to the Government (May 2018 and March 2018). The Government replied that a demand has been raised and recovery has been proposed under the Rajasthan Land Revenue Act, 1956. Further progress is awaited (February 2019).

²³ Royalty to be paid by the lease holder in excess of annual dead rent is called excess royalty.

²⁴ Rate of interest 15 *per cent* per annum (up to 28 February 2017) and 18 *per cent* per annum thereafter as per RMMC Rules, 1986 and RMMC Rules, 2017 respectively.

²⁵ The first contract was for collection of excess royalty for the period from 5 May 2015 to 31 March 2017 on limestone and marble despatched from the sanctioned leased areas situated in the revenue area of *tehsil* Kotputli district Jaipur, the second contract was for collection of excess royalty for the period from 1 April 2016 to 31 March 2018 on masonry stone despatched from the sanctioned leased areas situated in the revenue area of *tehsil* Virat Nagar, district Jaipur and the third contract was for collection of excess royalty for the period from 1 April 2016 to 31 March 2018 on *granite* despatched from the sanctioned leased areas situated in the revenue area of *tehsils* Asind, Badnor, Bhilwara, Kareda, Mandal and Raipur district Bhilwara.

7.6 Non/short recovery of compounding fee

According to Rule 48(1) of the Rajasthan Minor Mineral Concession (RMMC) Rules, 1986, no person shall undertake any mining operations except permission granted under these Rules. Further, according to Section 23-A of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 read with proviso of Rule 48(3) of the Rules *ibid*, any officer/official authorised in this behalf may compound the offence committed in contravention of the Rule 48 (1), on payment of such sum as he may specify. The amount specified under the above proviso shall not be less than ₹ 5,000 and shall be in addition to the cost of mineral if recoverable. Furthermore, according to Rule 68(5) of the Rules *ibid*, if any officer authorised by the Department or by the Government has a reason to believe that royalty is likely to be evaded in respect of any mineral liable to assessment for royalty, such officer may require the owner or person in-charge of the vehicle to pay an amount equal to 10 times the amount of royalty payable on the mineral along with compounding fee.

The State Government *vide* circular dated 13 January 2011 prescribed the compounding fee for releasing the seized vehicle chargeable under Section 23-A of the Act *ibid* read with Rule 48(3) and 68(5) of the Rules *ibid* from the offenders involved in illegal mining and transportation of mineral:

Sl. No.	Name of equipment/vehicle/tools	Compounding fee for each item (in ₹)
1	Tractor trolley/compressor/drilling machine/ wire saw and other tools, <i>etc.</i>	25,000
2	Half body trucks/small dumpers/crane, <i>etc.</i>	50,000
3	Full body trucks/heavy duty dumpers/crusher/power hammer, <i>etc.</i>	1,00,000
4	Trolla/excavator/loader, <i>etc.</i>	2,00,000

The above amounts were to be charged in addition to the cost of the mineral excavated.

During scrutiny of *Panchanama* files maintained in the office of the AME Sawai Madhopur, it was noticed (March 2018) that in 45 cases, Departmental officials released vehicles which were involved in the illegal transportation of mineral either without charging (18 cases) or short charging (27 cases) the compounding fee in violation of the provisions mentioned above. This resulted in non-recovery/short recovery of compounding fee of ₹ 23.90 lakh.

The matter was pointed out to the Department and reported to the Government (May 2018). The Departments' reply forwarded by the Government stated (October 2018) that at the time of checking, the vehicles had valid *rawanna* and the cost of quantity of mineral in excess of the quantity permitted in *rawanna* was recovered along with compounding fee. As these vehicles had *rawannas*, the circular dated 13 January 2011 was not applicable in these cases.

In all the cases mentioned above, either the vehicles transported the minerals without *rawannas* or in excess of the quantity mentioned in the *rawannas* as such attracted the provisions of the circular *ibid* for release of the vehicles. Thus, reply of the Department was not in line with the circular dated 13 January 2011 wherein it was also stated "*Keeping in view that different officers are charging different compounding fee for similar cases, it is decided*

that compounding fee at the above rates may be charged in addition to the cost of the minerals from the offenders for releasing the seized vehicles/tools". The facts indicated that the Department was not following the instructions issued by the Government circular.

It would be in the interest of the revenue and prevention of illegal mining if the Government directs the Department to follow the instructions issued by it and compound the offences in accordance with the norms framed by it in the circular.

7.7 Lack of proper action against the mining lease holder for illegal excavation and despatch of mineral

According to Rule 18 (9)(c) of Rajasthan Minor Mineral Concession (RMMC) Rules, 1986 a lessee or any other person shall not remove or despatch or utilise the minerals from the mines or quarry without *rawanna*²⁶ duly issued by concerned ME for particular mineral and area. Further, Rule 48(1) of the Rules *ibid* stipulated that no person shall undertake any mining operations except in accordance with the terms and conditions of the mining lease (ML) granted under these Rules. Moreover, Rule 48(5) of the Rules *ibid* stipulated that whenever any person, without a lawful authority or in contravention of the terms and conditions of the ML, raises and despatches any mineral, the ME/AME concerned may recover cost of such mineral calculated at 10 times the royalty payable at the prevalent rates.

During scrutiny (March 2018) of records of ME Bundi-I it was noticed that a site inspection was conducted (23 November 2015) by the Superintending Mining Engineer (SME), Kota; SME (Vigilance), Kota and ME Bundi-I as part of an enquiry regarding unauthorised excavation by the holder of ML number 33/2002 (*Mineral sandstone*). The officials, on the basis of site inspection, concluded that the excavation has not been done for the last three years in the ML area. However, it was seen that illegal excavation was carried out from an area other than the designated ML area. The ME issued (February 2016) a legal notice to the lessee for mis-utilisation of 196 *rawannas* issued during the previous three years for the despatch of illegally excavated mineral from an area other than the designated ML area. Site inspection of the lease was again conducted (30 August 2016) for verification of the reply furnished (March 2016) by the lessee in response to the legal notice. This inspection again confirmed the facts regarding illegal mining pits in an area other than the designated ML area and the inspection team also observed that *rawannas* were misused for despatch of mineral illegally excavated.

Audit observed that the Department, despite being aware that the lease holder indulged in illegal mining, issued (July 2016) notice only for non-deposit of outstanding dues and penalty for non-submission of the mining plan (₹ 0.38 lakh + ₹ 1.50 lakh). Further, it was also seen that though the Department cancelled the ML (24 November 2016) and took over the possession of the ML area but it neither calculated the quantity of mineral illegally excavated and despatched through the *rawannas* nor raised a demand in this regard.

²⁶ *Rawanna* means delivery challan for removal or despatch of mineral from mines.

The matter was pointed out to the Department and reported to the Government (May 2018). The Government intimated (September 2018) that recovery of ₹ 37.24 lakh for the cost of the mineral has been proposed under Rajasthan Land Revenue Act. The Department, however, has not furnished the assessment order regarding the demand raised though called for (February 2019).

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(ANADI MISRA)

Accountant General

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JAIPUR
The 28 April 2019

Countersigned

Rajiv Mehrishi

(RAJIV MEHRISHI)

Comptroller and Auditor General of India

NEW DELHI
The 30 April 2019

