

Chapter - VI
Mining Receipts

CHAPTER VI

MINING RECEIPTS

6.1 Non-tax revenue Administration

Assessment and collection of mining receipts are regulated by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988 and Odisha Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules, 2007 framed thereunder. The organisational setup for administration of mining receipts is as under:



6.2 Internal Audit

During the year 2019-20, Internal Audit Wing of the Department had audited three out of 12 units that were planned for audit. Further, 294 paragraphs of Internal Audit Reports having money value of ₹1,115.08 crore were pending for disposal as on 31 March 2020.

6.3 Results of Audit

Audit was conducted in 14 out of 43 units (32.55 per cent) in Steel and Mines Department during 2019-20. Revenue receipts collected in the test checked 14 units was ₹10,461.69 crore, which was 99.83 per cent of revenue receipts worth ₹10,479.61 crore collected in 43 units during the year 2018-19. Test check of assessment and other records showed non/ short receipt of Government revenue under Government account and other irregularities involving ₹1,463.71 crore in 249 cases which fall under the categories as indicated in Table 6.1.

Table 6.1: Categories of audit observations on revenue receipts

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/ short receipts of Government revenue	119	1,462.93
2.	Other irregularities ⁸⁹	130	0.78
Total		249	1,463.71

⁸⁹ Delay in follow-up for realisation of compensation demand under section 21(5), Blockage of revenue due to non-disposal of seized minerals, irregular extension of validity of mining leases etc.

During the year 2019-20, the Department accepted under assessment and other deficiencies worth ₹1,463.71 crore in 249 cases pointed out by Audit. An amount of ₹509.78 crore pertaining to 161 cases was also realised during the year which was pointed out in earlier years.

There is one broad category of audit observation on non/ short receipts of Government revenue which is of a nature that may reflect similar errors/ omissions in other units under the department but not covered in the test audit.

Department may, therefore, like to internally examine all the other units with a view to ensure that Mining receipts are realised as per provisions of the Act and rules.

6.4 Audit observations

Audit conducted scrutiny of records maintained in the offices of the Director of Mines, Odisha, Deputy Directors of Mines (DDsM) and Mining Officers. Audit noticed short levy of royalty, non-realisation of District Mineral Foundation fund and contribution to National Mineral Exploration Trust, mining receipts, salary component, non-levy of dead rent (DR) and surface rent (SR), interest on belated payment of DR and SR and short realisation of stamp duty and registration fee as discussed in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by Audit.

6.5 Non-observance of provisions of the Acts/ Rules

Mines and Minerals (Development and Regulation) Act, 1957, Mining Concession Rules, 1960, Mineral Conservation and Development Rules, 1988, Orissa Minerals (Prevention of Theft Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules, 2007 read with the notifications and instructions of the State/ Central Government issued from time to time provide for assessment, levy and realisation of royalty at the prescribed rate.

Cases of short levy of royalty, non-realisation of District Mineral Foundation fund and contribution to National Mineral Exploration Trust, mining receipts, salary component, non-levy of dead rent (DR) and surface rent (SR), interest amount and stamp duty and registration fee & other charges are discussed in the following paragraphs.

6.5.1 Non-realisation of cost of graded iron ore extracted beyond the approved quantity

Non-realisation of ₹456.46 crore towards cost price of the iron ore extracted beyond the approved quantity by the Joint Director of Mines from the lessee.

Under Rule 22A of the Mineral Concession Rules (MCR), 1960, mining operations shall be undertaken only in accordance with the duly approved mining plan. Therefore, the production limit capped in the mining plan/ scheme, among other stipulations need to be adhered to by the mining lease holders. As per Rule 22 (5) (v) of the MCR, 1960, the Mining Plan shall incorporate a tentative scheme of mining and annual programme and plan for

excavation from year to year for five years. Further, Sub-section (5) of Section 21 of the MMDR Act, 1957 provides that whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the minerals so raised, or where such mineral has been disposed of, the price thereof. In addition, the State Government may also recover from such person rent, royalty or tax, as the case may be for the period during which the land was occupied by such person without any lawful authority.

Audit test checked the assessment records for the year 2018-19, production and dispatch statements and monthly returns along with the approved mining plan/ scheme in 11 out of 14 Mining Circle Offices. Audit observed that Indian Bureau of Mines (IBM) approved (16 November 2017) mining plan in respect of one mining lease holder⁹⁰ under Joint Director of Mines, Joda circle. As per the approved mining plan, the production limit of Run of Mines (ROM) was 37,99,923 Metric Ton (MT) categorically bifurcating the production of ore at 29,66,333 MT and mineral rejects at 8,33,590 MT. However, as verified from the production details from monthly returns, the lessee produced iron ore of 37,87,130 MT and nil quantity of rejects during the year 2018-19. Comparing it with the corresponding figure in the approved mining plan, Audit observed that there was an excess production of 8,20,797 MT (37,87,130 MT less - 29,66,333 MT) of iron ore. As such, the excess production was unlawful for which, the cost of such ore amounting to ₹456.46 crore⁹¹ was to be realised from the lessee. The cost has been calculated taking into account the average sale price of iron ore of ₹5,561.17 per MT as published by IBM (from April 2018 to March 2019) as per the provision of the Act *ibid*. The Joint Director of Mines (JDM) neither recovered the excess ore produced nor realised the cost price. Since, such a large amount of revenue has been overlooked, responsibility may be fixed for the unrealised amount and the lapse.

In reply JDM, Joda, stated that compliance would be sent after due verification and scrutiny of records. The matter was also intimated to the Government of Odisha during June 2021. Their reply is awaited (September 2021).

6.5.2 Short realisation of Royalty and Non-realisation of contribution towards National Mineral Exploration Trust, District Mineral Foundation Fund on sized coal

Non-inclusion of sizing charges in the Run-of-Mine price of coal during assessment resulted in short levy of royalty of ₹41.50 crore with non-realisation of contribution of ₹13.28 crore to National Mineral Exploration Trust and District Mineral Foundation Fund.

Section 9 of MMDR Act, 1957, provides that the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from a lease area at the rate specified in the Second Schedule. Towards levy of

⁹⁰ Smt. Indrani Patnaik of Unchabali Iron & Manganese Mines

⁹¹ Cost price to be realised from lessee (₹456.46 crore) = 8,20,797 MT (Excess mineral raised during 2018-19) X ₹5,561.17 (Average sale price of total 12 months)

royalty on coal, Ministry of Coal vide Notification (May 2012) stated to levy at the flat rate of 14 per cent *ad-valorem* on the price of coal as reflected in the invoice excluding taxes and other charges. Further, if the top size of the coal is limited to 100 millimetre (mm) through manual facilities or mechanical means, sizing charges at the rate of ₹87 per tonne shall be leviable in addition to the price applicable to the Run-of-Mine (ROM) coal. As such, the royalty on coal should have been levied at the rate of ₹12.18 per ton (14 per cent of ₹87) from the holder of mining lease in addition to the price applicable for ROM coal. In case processing of ROM minerals is carried out within the leased area, then, royalty shall be chargeable on the processed mineral removed from the leased area.

Further, the holder of a mining lease shall pay a sum equivalent to i) two per cent of the royalty to the National Mineral Exploration Trust (NMET). ii) thirty per cent of the royalty paid in terms of the Second Schedule to District Mineral Foundation Fund (DMF).

Audit test checked assessment files and monthly returns for the year 2018-19 on production and dispatch in 11 out of 14 Mining Circle Offices (MCOs) and noticed that one lessee⁹² under jurisdiction of Deputy Director of Mines (DDM), Sambalpur, dispatched 340.73 lakh MT of sized coal of less than 100 mm size relating to four coal mines⁹³ during April 2018 to March 2019. The DDM assessed royalty on coal dispatched at the prescribed rate of 14 per cent of the price of ROM coal. The DDM, however, did not include the sizing charges in the price of the coal for assessing royalty, though the lessee collected the same from its customers and reflected in the sale invoices. Similarly, the DDM also failed to levy and collect two per cent of the royalty towards the NMET and thirty per cent of the royalty towards DMF fund as given in **Table 6.2**.

Table 6.2: Table showing under assessment of royalty, DMF fund and NMET on sized coal

(₹ in crore)

Name of the colliery	Quantity despatched (In MT)	Royalty short levied	DMF fund short levied	NMET short levied	Total amount short levied
Lakhanpur OCP	17549817.91	21.38	6.41	0.43	28.22
Lajkura OCP	4625666.46	5.63	1.69	0.11	7.43
Belpahar OCP	920431.99	1.12	0.34	0.02	1.48
Samaleswari OCP	10977348.95	13.37	4.01	0.27	17.65
Total	34073265.31	41.50	12.45	0.83	54.78

(Source: Compiled by Audit)

Thus, non-inclusion of sizing charges in the price of the coal in assessment resulted in short-levy of royalty worth ₹41.50 crore with non-realisation of contribution of ₹13.28 crore to DMF fund and NMET. The short realisation of royalty resulted in less collection of non-tax revenue to the State exchequer and DMF funds affected the development of the mining affected people and

⁹² M/s Mahanadi Coal Fields Ltd.

⁹³ Lakhanpur OCP, Lajkura OCP, Samaleswari OCP and Belpahar OCP

area. Similarly, NMET was to be collected for exploration of minerals which also was affected.

In response to observations of Audit, the DDM stated (May 2020) to have raised demands towards differential royalty, DMF fund and NMET against the lessees.

The matter was intimated (June 2021) to the Government of Odisha and their reply is awaited (September 2021).

6.5.3 Non-levy of interest on belated payment of royalty, surface rent and dead rent

Interest amount of ₹9.35 crore on delayed payments of royalty and ₹22.30 lakh on delayed payment of Dead Rent and Surface Rent not realised.

Under Rule 64A of Mining Concession Rules, 1960, State Government may charge simple interest at the rate of twenty-four *per cent* per annum on any rent, royalty or fee or other sum due to the Government. The due date for payment of royalty was 15th of each month against all ores/ minerals removed during the previous month. Surface Rent⁹⁴ (SR) and Dead Rent⁹⁵ (DR) shall be paid in two half yearly instalments from January to June (on or before 15 January) and from July to December (on or before 15 July) of each year.

During test check (May 2019 to March 2020) of assessment records for the period from April 2017 to September 2019 in 11 out of 14 Mining Circle offices (MCOs), Audit noticed that under 10 MCOs, 32 mining lease holders paid royalty, DR and SR amounting to ₹182.57 crore between June 2017 and January 2020 against the due period from July 2015 to September 2019. The delay in payment ranged between 08 days to 3 years and 2 days. The concerned Deputy Directors of Mines (DDsM) and Mining Officers (MOs) did not levy the interest amounting to ₹9.57 crore⁹⁶ for such delays and extended undue benefit to the mining lease holders.

In reply, the Director of Mines, Odisha stated (November 2020) that all the DDsM and MOs have issued demand notices for realisation of interest and eight DDsM/ MOs realised interest worth ₹27.64 lakh from 19 lessees. The balance interest amount of ₹9.30 crore remained unrealised from 14 lessees as detailed in the *Appendix-XII*.

The matter was intimated (June 2021) to the Government of Odisha, the reply is awaited (September 2021).

⁹⁴ Surface Rent means a rent payable to the Government for every year for the surface area allotted to a quarrying permit holder or a lessee under these rules at such rates not exceeding the land tax assessable on the land by the Government from time to time

⁹⁵ Dead Rent means the minimum amount payable in a year by the person granted a mining lease under these rules irrespective of the fact as to whether or not he operates/ could operate the area fully or partly

⁹⁶ Delayed payment of interest on royalty of ₹9,35,16,183 and on Dead Rent and Surface Rent – ₹22,30,542

6.5.4 Dead Rent and Surface Rent not levied

The Deputy Directors of Mines/ Mining Officers did not raise demands towards Dead Rent of ₹51.04 lakh and Surface Rent of ₹53.56 lakh for which such amount remained unrealised.

Section 9A of Mines and Minerals Development and Regulation (MMDR) Act, 1957 provides that the holder of a mining lease shall pay to the State Government, every year, Dead Rent (DR) at such rate, as may be specified in the third schedule appended to the Act for all areas included in the instrument of lease. As per Ministry of Mines notification (September 2014), DR payable was ₹2,000 *per hectare per annum* for low value minerals from fifth year onwards of lease. DR for medium value, high value, precious metals and stone minerals were two times, three times and four times of the said rates respectively.

Similarly, under Rule 27 of Mineral Concession Rules, 1960, the lessee shall also pay Surface Rent⁹⁷ (SR) for the surface area used by him for the purpose of mining operations. As per Steel and Mines Department Notification (November 2013), SR is payable at the rate equivalent to one *per cent* of the market value of land *per annum* subject to a minimum of ₹1,000 to maximum of ₹10,000 *per annum per hectare* for leases granted to different category of minerals in respect of land not assessable to land revenue.

During test check of the assessment records for the period from April 2017 to September 2019 in 11 out of 14 Mining Circle Offices (MCOs), Audit noticed that five MCOs did not levy DR worth ₹51.04 lakh on 19 lessees for the period from January 2018 to December 2019. Similarly, 18 lessees did not pay SR worth ₹53.56 lakh for the surface area used by them. The concerned DDsM/ MOs neither assessed the cases nor raised the demands for realisation of the same. This resulted in non-realisation of Government revenue amounting to ₹1.05 crore towards DR and SR. This indicates lack of action by the concerned authorities in raising the demand for DR and SR.

In reply, MO, Bhawanipatna stated that action would be taken whereas DDM, Koira, raised demands amounting to ₹58.53 lakh after it was pointed out by audit. The remaining three DDsM/ MOs stated that action would be taken after verification of records.

The matter was intimated to the Government of Odisha during June 2021. Their reply is awaited (September 2021).

⁹⁷ Surface Rent is the compensation paid by the lessee for occupying the surface of the land

6.5.5 Non realisation of salary component of Government staff posted in private weighbridges

DDM, Rourkela did not collect and deposit the salary component in the Government account, as a result the owners of private weighbridges were extended undue benefit of ₹1.02 crore.

Rule 11 (1) of the Odisha Minerals, Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation (OMPTS) Rules, 2007 provides that Government may set up check-posts with or without barriers and weighbridges at any place within the State with a view to check the transport and storage of minerals raised without lawful authority and to check the quality and quantity of minerals transported from the lease-hold areas to depot. The lessee, licensee or permit holder shall pay to the Government the weighment charges for weighment of mineral in a Government weighbridge at the rate prescribed by the Government. Steel and Mines Department approved (March 2010) the weighment charges as ₹35 per vehicle for weighment of minerals carried at the private weighbridges. Out of this, ₹25 was to be charged towards cost of weighbridge maintenance and ₹10 towards salary components of the Government staff posted therein. The amount collected towards salary component shall be deposited in Government account by the concerned Deputy Director of Mines (DDM).

On scrutiny of permit and pass details of vehicles carrying minerals under different mines of DDM, Rourkela, Audit observed that during November 2017 to January 2020, the DDM, Rourkela issued 10,20,957 transit passes to the lessees of three mines for transportation of minerals through their own weighbridges. Based on the transit passes issued, the salary component of the Government staff posted in those private weighbridges was worked out as ₹1.02 crore which was to be deposited in the Government account as per aforesaid codal provision. But, the DDM, Rourkela did not collect the amount from the owners of private weighbridges and deposit the same in the Government account. As a result, the owners of private weighbridges were extended undue benefit with loss to the Government of ₹1.02 crore.

After this was pointed out by audit, demands amounting to ₹40.51 lakh were raised by the DDM, Rourkela for the period from November 2017 to October 2018, but no demand was, however, raised for the remaining period.

The matter was intimated to the Government of Odisha during June 2021. Their reply is awaited (September 2021).

6.5.6 Stamp Duty and Registration Fee short realised

Non-inclusion of useful waste quantity of decorative stone in the highest production quantity led to loss of Stamp Duty and Registration Fee worth ₹30.96 lakh.

Sub-section (1) and (2) of Section 22 of the Granite Conservation and Development Rules, 1999 provide for regular separate stacking of non-saleable granite and small granite blocks. Such non-saleable granite suitable for possible use in manufacture of bricks as well as flooring or wall tiles by small scale industries sector shall not be used as road metal or stone aggregate. Such material shall be segregated from the dumps of granite rejects and stored separately for future use as far as possible.

The Government of Odisha, Steel & Mines Department stated (January 2012) that the highest annual production planned and approved by a statutory authority in the mining scheme should form the basis for the assessment of stamp duty taking into account the amount of royalty that would accrue out of the said level of production. Further, as per the approved mining plans, wastes/ rejects generated in the mining operation would be dispatched to the nearby areas for construction of roads and buildings and also for construction/ periodic repair of existing roads in the surroundings as per demand on payment of royalty. Such useful waste quantity of decorative stone was estimated between 40 and 70 *per cent* of the total waste materials produced.

Audit scrutinised records like registration of mining lease cases in 11 out of 14 Mining Circle Offices (MCOs) and noticed that two MCOs granted mining leases during 2017-18 to four leases of decorative stones (specified as Minor Mineral) and registered lease deeds for 30 years during the said year. Highest production quantity of rejects in four leases ranged from 8,553 cum to 33,354 cum. Based on such rejects, the quantity to be used as construction materials / flooring or wall ranged from 4,276.5 cum to 23,348 cum in such four leases totalling 56,385.5 cum. But, it was noticed that while forwarding the cases to Registration Authorities (RAs) for assessing the stamp duty (SD) and registration fees (RF) for execution of lease deeds, two MCOs did not include the proposed useful quantity of wastes/ rejects of stone blocks and tiles in the highest quantity of production. The reason for non-inclusion of such saleable quantity in total production quantity was not on record. Thus, due to non-inclusion of useful quantity of wastes/ rejects in highest production quantity for assessment by the two MCOs, the royalty was under assessed to the tune of ₹4.42 crore with consequent short-realisation of SD & RF of ₹30.96 lakh as detailed in the *Appendix-XIII*.

In reply, Mining Officer (MO), Cuttack, while referring to the Government Circular (May 2013), stated that stamp duty was payable on every instrument of grant or renewal of mining lease equivalent to 15 *per centum* of the amount of average royalty that would accrue out of the highest annual extraction of minerals permitted under the approved mining plan. However, reply of the MO did not give any reason for non-inclusion of such saleable quantity in the

highest quantity of production. The DDM, Rourkela stated to submit the reply after scrutiny of records.

The matter was intimated to the Government of Odisha during June 2021. Their reply is awaited (September 2021).



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