

CHAPTER IV
Assessment and
Collection of Mineral
Receipts

This chapter discusses various issues regarding the assessment and collection of mineral receipts. The audit observations include non-levy of additional amount, along with royalty, from Government Companies/Corporations; non-levy of interest on delayed payment of royalty; short assessment of royalty, due to non-verification of the sales turnover reported by lessees; blockage of revenue, due to non-disposal of seized minerals; non-realisation of compensation for illegal extraction; and a suggestion for review of the existing grade classification of chromite.

4.1 Introduction

The royalty payable by mining lease holders is to be assessed on a quarterly basis, by the DDMs/ MOs of the concerned mining circles. As per GoO order dated 9th August 1974, upon receipt of the monthly returns, along with particulars of the royalty paid by leaseholders, the DDMs/ MOs are required to undertake quarterly verification of the said returns and also inspect the accounts, as well as other relevant documents maintained by the leaseholders, in respect of the minerals consumed/ removed from the mining lease areas.

Audit observations, relating to the assessment and collection of mineral receipts, are discussed in the following paragraphs.

4.2 Non-levy of interest on delayed payment of royalty

Under Rule 64 A of the Mineral Concession Rules, 1960, the State Government may charge simple interest, at the rate of twenty-four *per cent* per annum, on any unpaid rent, royalty or fee or other sum due to the Government, for the period from the sixtieth day of the expiry of the due date fixed by the State Government, up to the date of payment. The due date for payment of royalty was 15th of each month, against all ores/minerals removed during the previous month, as per the notification (August 1974) of GoO.

Scrutiny of assessment files, for the years 2015-22, in respect of different mines, under three mining circles⁵¹, revealed that 15 mines did not pay the royalty and additional amount within the prescribed period, including the grace period of sixty days. The delays ranged from 04 to 133 days, for which interest amounting to ₹28.66 crore was to be realised, as detailed in *Appendix-XII*. However, no action was taken by the DDMs, for realisation of the interest amount.

In reply, the Government stated (September 2023) that, the IBM is publishing the Average Sale Price of corresponding month after three and four months later. Thereafter, only circle offices are demanding the differential royalty for payment within specified period. In case of non-payment of differential

⁵¹ DDM, Jajpur; DDM, Joda; and DDM, Koira

royalty within the time limit specified earlier, the interest on delayed payment is being demanded and realised. However, the fact remains that Government could not furnish the lessee-wise compliances for non-levy of interest on delayed payment of royalty.

4.3 Short-assessment of royalty, due to non-verification of sales turnover reported by lessees

As per State Government notification of August 1974, for assessment of royalty payable by mining leaseholders, the mining officers are required to scrutinise the prescribed returns submitted by the mining leaseholders to the mining circles, and verify the same with reference to relevant records.

Mining leaseholders were reporting their sales turnovers through various annual returns (H1 return / G1 return⁵²) uploaded on the i3MS software of the S&M Department. According to departmental records, the i3MS software had been integrated with the Value Added Tax Information System (VATIS) of the Commercial Taxes (CT) department in order to enable validation of the sales turnover reported by leaseholders on i3MS with the corresponding sales turnover data submitted by leaseholders on VATIS to the CT Department for assessment of tax.

However, scrutiny of records of two mining circles (Joda and Koira) showed that despite integration of i3MS with VATIS, the TIN Number of the lessees (as recorded on VATIS) was not being entered on i3MS. Further, it was also observed that similar integration of i3MS with Goods and Services Tax Network (GSTN) had not been done as of March 2022. In the absence of this linkage, the sales turnover from minerals, as reported by the lessees in their annual returns on i3MS, could not be cross-validated by the mining officers with corresponding data on VATIS (as submitted by the leaseholders under Dealer Return Summary) or GSTN, at the time of assessment of royalty. The veracity of the ASP using invoice data from GSTN was not ascertained leading to risk of suppressed ASP and lower royalty.

In this regard, Audit scrutinised annual returns (H1/G1) submitted on i3MS by seven lessees of two mining circles (Joda and Koira) who were engaged solely in trading of minerals (as per their registration certificates issued by the CT department), and cross-checked the same with their annual returns submitted, as per the VAT/ GST Acts, to the CT department, for the period 2015-22. It was found that for all the seven lessees, the sales turnovers declared by them in their returns submitted to the mining circles on i3MS, were different from those reported to the CT department on VATIS / GSTN. The sales turnovers of these lessees, as per their VAT/GST returns, were higher than the sales turnovers shown in their H1/G1 annual returns, submitted to the mining circles. For instance, during FY 2019-20, for the lessee, M/s Essel Mining and Industries, the sales turnover, reported to the CT department, was ₹ 5,561.18 crore. However, the return submitted by the same lessee, to the Joda mining circle, showed the sales as only ₹2,946.75 crore, *i.e.* lesser by ₹2,614.43 crore, on which royalty of ₹392.16 crore was realisable, along with DMF and NMET charges of ₹117.65 crore and ₹7.84 crore, respectively.

⁵² The annual report format prescribed by the IBM for the lessees

This was indicative of the risk that lessees were underreporting their sales turnovers, to the concerned mining circles, in order to reduce their liability towards payment of royalty. On the basis of the above scrutiny and cross-verification of the total sales turnover, the short-assessment of royalty, for the seven lessees, worked out to ₹905.66 crore. Accordingly, charges towards DMF, amounting to ₹271.70 crore (30 per cent) and towards NMET, amounting to ₹18.11 crore (2 per cent), were also leviable, as detailed in *Appendix-XIII*. Thus, due to non-integration of VATIS/ GSTN with i3MS, the department could not verify the sales turn over declared in annual returns (H1) with the sales turn over declared in annual returns under VAT/ GST Acts in Commercial Taxes Department. Thus, an indicative amount of ₹1,195.47 crore was short assessed by the DDMs and was recoverable from the lessees concerned.

In reply, the Government stated (September 2023) that, it has been ascertained that, the sales turnover declared by the lessee in return submitted to the Mining Circle covers only for royalty portion. In case of the report/ returns submitted to Commercial Tax Department covers royalty, sales of value added products, sales of services (B2B) and other operating costs. Hence, the objection is not realisable.

The reply of the Government was not acceptable as the audit observation was on non-integration of VATIS/ GSTN with i3MS for which there was short assessment of royalty. Moreover, the Government's current reply is in non-confirmation of their previous reply during exit conference that government would ensure a mechanism to fetch/ validate sales or turnover data as reported by lessees on the i3MS system with the GSTN system. Further, it was noticed that the only business of these lessees, as reported in the VAT/ GST registration, was iron-ore and documents relating to explaining the existence of other products/ services in the reported turn over by the lessees were not provided with the reply. In this scenario and due to the extent of variation between the reported sales turnover between GST returns and annual returns in i3MS, Audit could not draw an assurance that the annual returns in i3MS contained declaration of correct and complete sales turnover by the lessees.

4.4 Blockage of revenue due to non-disposal of seized minerals

Under Section 21(4) of the MMDR Act, 1957, any mineral, raised or transported without lawful authority, is liable to be seized by an officer or authority specially empowered in this behalf. As per guidelines prescribed by GoO in November 2008, minerals, seized by mining circle offices, are to be immediately handed over to OMC, for storing, processing and sale.

Scrutiny of records of four DDMs (Joda, Koira, Talcher, Jajpur), relating to seizure cases, revealed that 955 cases of unlawfully raised/ transported minerals, registered during 2015-22, had remained undisposed (as of March 2022) without these seized minerals having been handed over to OMC (iron ore: 36,461.463 MT, manganese: 1,542.260 MT, coal: 4,655.434 MT and chromite: 465.992), with a total value of ₹7.94 crore⁵³. Reasons for non-

⁵³ Calculated as per the lowest average sale price amongst various grades, as notified by IBM for March 2022

disposal were not found available on records. Delay in disposal of the seized minerals resulted not only in blockage of revenue of ₹6.35 crore (80 per cent of the value of minerals, since the remaining 20 per cent handling charges were to be retained by OMC), accruable to Government, but also posed the risk of theft and deterioration in the quality of minerals.

In reply, the Government stated (September 2023) that, in respect of DDM, Koira, M/s G.M. (Sales) of M/s OMC Ltd., Bhubaneswar has been requested (June 2023) and for other mining circle offices also requested M/s OMC Ltd. to take possession of seized minerals for disposal. Disposal of such seized minerals is being done by OMC Ltd. during their monthly auction sale of minerals. However, the fact remains that its only after audit observations, the Government initiated the process of dispose of all the seized ores. This indicates lack of monitoring at department level for timely disposal of seized minerals.

4.5 Non-realisation of compensation for illegal extraction

As per Section 21 (5) of the MMDR Act, 1957, if any person raises mineral from any land without lawful authority, the State Government may recover, from such person, the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover, from such person, rent, royalty or tax, for the period during which the land had been occupied by such person without any lawful authority.

4.5.1 Compensation for illegal extraction of iron and manganese ores

Scrutiny of records revealed that in pursuance of Hon'ble Supreme Court order (August 2017) in context of illegal mining in Odisha, the DDMs of seven⁵⁴ mining circles had raised (September 2017) demand of ₹21,427.28 crore, against 144 Iron and Manganese mines, for unlawful mining, during the years 2000-11. Out of this, ₹16,350.90 crore was realised from 106 lessees and the balance ₹5,076.38 crore had remained unrealised, as of March 2022.

In reply, the Government stated (September 2023) that, pursuant to judgement (August 2017) of Hon'ble Supreme Court of India, the State Government raised demands under Section 21(5) of MMDR Act, 1957 for payment of compensation towards minerals produced without/ in excess of limit permissible for Iron and Manganese ore under EPA/ FCA. After scrutiny of records, 26 Iron and Manganese mining leaseholders have not yet paid the compensation demand of ₹ 2,965.29 crores out of total compensation demand of ₹3,308.35 crores. The concerned Collector & District Magistrates have instituted the Certificate Cases under OPDR Act, 1962 in respect of 26 defaulting lessees for Iron and Manganese leases which is yet to be finalised and concerned authorities are taking necessary initiation for speedy recovery of entire amount along with the applicable interest.

Although the Government has accepted the audit observation, but the balance amount yet to be realised, as reported by the Director of Mines, Bhubaneswar was ₹ 5,076.38 crore. Further, the fact remains that cases for realisation of compensation for illegal extraction of iron and manganese ores are pending for

⁵⁴ Balangir, Baripada, Jajpur Road, Joda, Keonjhar, Koira and Koraput

many years. This indicates lack of monitoring mechanism for collection of Compensation for illegal extraction of iron and manganese ores.

4.5.2 Compensation demanded for illegal extraction of chromite

Scrutiny of the records of DDM, Jajpur Road, revealed that compensation demands of ₹3,091.18 crore had been raised (April 2018) against 11 lessees, for unlawful mining, out of which ₹2,437.28 crore had been realised from six lessees. The other five lessees had not paid the demanded amount of ₹653.90 crore and had obtained (May 2018) a stay from the Revisional Authority. Although four years had elapsed, the State Government had not taken necessary action, such as issuing instructions to the concerned DDMs for ascertaining the status of the cases, for vacation of the stay, or to pursue the matter in an appropriate court of law.

In reply, the Government stated (September 2023) that, cases filed by the lessees, are pending at the level of the Revisional Authority. The Revisional Authority has passed orders not to take any coercive action against the said lessees till finalisation of the case.

The reply of the Government was not acceptable as these cases are pending from many years and the Government had not taken necessary action, for vacation of the stay, or to pursue the matter in an appropriate court of law.

Recommendations:

Government should:

- 7. investigate the under reporting of sales turnover by lessees on i3MS.**
- 8. ensure robust integration of i3MS with GSTN in order to facilitate cross-validation of information, and accuracy in assessment of the royalty receivable. Further, the Government may also explore the possibility of integrating turnover reported in GST returns in the assessment system of royalty, in coordination with Ministry of Mines.**
- 9. take up the matter of reviewing the existing grading classification for chromite with IBM, to devise more appropriate grading brackets for publication of average sale prices of ores having different Cr₂O₃ content, so that the royalty leviable is reflective of the actual market prices.**