

## CHAPTER-III

### LEVY AND COLLECTION OF REVENUE

#### Summary

*Revenue in the form of royalty/regulating fees/palothan etc. is levied and collected by the State Government. Any amount due including royalty to the State Government, if it is not paid within prescribed time, the State Government may realise such dues from the lessee as arrears of land revenue.*

*The Department needs to improve monitoring of its receipts properly as the revenue dues were not/short collected from lease/permit holders of mines and brick kiln owners in some instances. Contribution to DMFT was not deposited by 20 lease holders. MSTC, a company authorised for e-auctioning, deducted service charge from mineral receipt deposited by successful bidders, which should have been claimed separately and adjusted with departmental expenditure. The Department overstated its revenue as security deposit amount was deposited in revenue head by lessees. Revenue receipts from minor minerals were not being deposited under proper minor head despite provision in the List of Major and Minor Heads for Union and the States.*

*The Department did not maintain proper records of date of submission of mining plan by lessees. Audit considered date of preparation as date of submission of mining plan and found that 25 lessees had submitted mining plan with delay and the Department had not charged penalty in these cases. The Department also did not realise price of mineral and penalty from 14 lessees who excavated minerals without revised mining plan.*

*Irregularities noticed in transit passes submitted by contractors to executing agencies were such as those issued for other destination, third copy/duplicate copy attached, issue date before award of work and after completion of work.*

#### 3.1 Introduction

Rule 28(2)(4) of the UPMMC Rules, 1963 (as amended time to time) provides that instalments of amount of tender/auction will be fixed quarterly as per the Fourth Schedule. Rule 58(1) of the UPMMC Rules, 1963 stipulates that the State Government or any officer authorised by it may serve a notice on the lessee to pay within thirty days of the receipt of the notice any amount due or dead rent under the lease including the royalty due to the State Government and if it is not paid within fifteen days after the date fixed for such payment, may determine the mining lease. This right shall be in addition to that of the State Government to realise such dues from the lessee as arrears of land revenue.

Further, as per Rule 10(2) of the Uttar Pradesh District Mineral Foundation Trust Rules, 2017, in case of minor mineral the holder of every mineral concession/permit shall in addition to the royalty, pay to the District Mineral Foundation Trust (DMFT), in which the mining operations are carried on, an amount which is equivalent to 10 *per cent* of royalty or as may be prescribed by the State Government from time to time.

Audit examined the records of 18 district mining offices and DGM. The irregularities noticed by Audit with respect to levy and collection of revenue from mining operations are discussed in succeeding paragraphs:

## **Audit findings**

### **3.2 Royalty and DMFT contribution**

Royalty and contribution to DMFT for mining leases are required to be paid by lessees to the Government on quarterly/monthly basis and if not done so, the lease may be cancelled and royalty may be collected as arrears of land revenue in accordance with rules.

#### **3.2.1 Royalty not realised**

Audit test-checked lease files of 217 leases in 16 DMOs and noticed in four DMOs<sup>29</sup> that 10 lease holders deposited an amount of ₹ 7.43 crore against the due royalty of ₹ 55.04 crore payable between January 2019 and March 2022 as per payment schedule of lease deeds. The Department failed to recover the royalty of ₹ 47.61 crore as shown in **Appendix-V**.

#### **3.2.2 Contribution to DMFT not collected**

Audit test-checked lease files of 217 leases in 16 DMOs and noticed that contribution of ₹ 13.71 crore to DMFT was required to be deposited at the rate of 10 *per cent* of royalty by 20 lease holders between April 2017 and March 2022 in five<sup>30</sup> DMOs, but they did not contribute to DMFT. The concerned DMOs also did not initiate action to recover these dues. This resulted in contribution to DMFT not being realised as shown in **Appendix-VI**.

The Government, in exit conference, assured to collect the due amount from lease holders. Audit is of the opinion that there should be such control in the Mine Mitra portal itself by which timely collection of revenue could be monitored.

### **3.3 Irregularities in levy and collection of revenue from brick kilns**

One Time Settlement Schemes (OTSS) for brick kilns, announced by the Government from time to time, provided for payment of a consolidated amount of royalty at the prescribed rates along with permit application fees. It also provided for charging of interest at the rate of 18 *per cent* on belated payment of royalty, fee or other sum due to the Government. In OTSS for the years 2017-18, an additional 10 *per cent* of royalty was to be levied for *palothan*<sup>31</sup> soil used in brick making. The UPDMFT Rules, 2017 stipulate that the holder of every mineral permit shall, in addition to royalty, pay to the Trust

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<sup>29</sup> Fatehpur, Hamirpur, Prayagraj and Sonebhadra.

<sup>30</sup> Chitrakoot, Fatehpur, Hamirpur, Prayagraj and Sonebhadra.

<sup>31</sup> Sandy soil.

of the district in which mining operations are carried on, an amount equivalent to 10 *per cent* of royalty. As per the provision of the UPMVC Rules, 1963 (as amended)<sup>32</sup> a regulating fee has been imposed on brick kiln in place of royalty for the brick kiln year<sup>33</sup> 2018-19 and onwards.

Further, as per Government order dated 23 November 2017, DMOs are required to obtain authentic information from Trade tax/GST office and Jila Panchayat to ascertain actual number of brick kilns in operation and accordingly initiate action. The irregularities noticed by Audit in test checked 1,483 brick kilns of 16 districts are detailed below:

### **3.3.1 Permit application fees, Royalty, and *Palothan* not realised from the brick kiln owners**

Audit test-checked Brick Kiln Register and files/challans of 1,483 brick kilns in 16 DMOs and noticed in three DMOs<sup>34</sup> that 31 brick kiln owners did not pay royalty, *Palothan*, permit application fees and contribution to the DMFT for the brick year 2017-18. The concerned DMOs neither initiated any action to stop their business nor made any efforts to realise due amount of ₹ 55.34 lakh including royalty of ₹ 45.60 lakh, *palothan* of ₹ 4.56 lakh, permit application fees of ₹ 0.62 lakh and contribution to DMFT of ₹ 4.56 lakh as shown in **Appendix-VII**.

### **3.3.2 *Palothan* not realised from the brick kiln owners**

Audit test-checked Brick Kiln Register and files/challans of 1,483 brick kilns in 16 DMOs and noticed that 175 brick kiln owners in seven DMOs<sup>35</sup> did not deposit *palothan* of ₹ 23.56 lakh against royalty paid of ₹ 2.36 crore for the brick kiln year 2017-18 to 2019-20 as shown in **Appendix-VIII**.

### **3.3.3 Contribution to DMFT not realised from the brick kiln owners**

Audit test-checked Brick Kiln Register and files/challans of 1,483 brick kilns in 16 DMOs and noticed that 541 brick kiln owners in 10 DMOs<sup>36</sup> did not contribute to DMFT for the period 2017-18 amounting to ₹ 71.42 lakh against royalty paid ₹ 7.14 crore. Concerned DMOs did not initiate action to realise contribution to DMFT from brick kiln owners. This resulted in non-realisation of revenue to the Government as shown in **Appendix-IX**.

### **3.3.4 Regulating fees, permit application fees, and *Palothan* not realised from the brick kiln owners**

Audit test-checked Brick Kiln Register and files/challans of 1,483 brick kilns in 16 DMOs and noticed in 11 DMOs<sup>37</sup> that 477 brick kiln owners did not pay regulating fees, *palothan* and application fees for the brick year 2018-19 to 2021-22. The concerned DMOs neither initiated any action to stop the

<sup>32</sup> 46<sup>th</sup> amendment dated 06.03.2019.

<sup>33</sup> October to September.

<sup>34</sup> Hamirpur, Kanpur Dehat and Saharanpur.

<sup>35</sup> Fatehpur, GB Nagar, JP Nagar, Hamirpur, Saharanpur, Shamli and Siddharthnagar.

<sup>36</sup> Fatehpur, GB Nagar, Hamirpur, JP Nagar, Kanpur Dehat, Kaushambi, Prayagraj, Saharanpur, Sambhal and Siddharthnagar.

<sup>37</sup> GB Nagar, Hamirpur, JP Nagar, Kanpur Dehat, Kaushambi, Prayagraj, Saharanpur, Sambhal, Shamli, Siddharthnagar and Sonbhadra.

business nor made any efforts to realise the due amount of ₹ 7.80 crore including regulating fees of ₹ 7.01 crore, *palothan* of 70.08 lakh and application fees of ₹ 9.54 lakh as detailed in **Appendix-X**.

Further, only five DMOs<sup>38</sup> could provide the list of brick kilns obtained from GST office to Audit. Other DMOs did not obtain the list from GST office. It was violation of the Government order dated 23 November 2017, and the Department could not avail benefit of real-time authentic data to ascertain the actual number of brick kilns operating in the concerned district for realisation of application fee, royalty/regulating fees, *palothan* and DMF.

The Government, in exit conference, assured to examine these cases and collect the due amount from brick kiln owners. Audit is of the opinion that in these cases also there should be such control provision in the Mine Mitra portal itself by which timely collection of revenue could be monitored.

### **3.4 Deduction of MSTC service charge from mineral receipts in violation of provisions of Financial Rules**

Financial Handbook<sup>39</sup> of the Government of Uttar Pradesh provides that under the Treasury Rule, all moneys as defined in the articles 266, 267 and 284 of the Constitution, received by or tendered to the Government servants in their official capacity shall, without undue delay be paid in full into the treasury or into the Bank and shall be included in the Government Account. Except as provided in Treasury Rule 7(2) (paragraph 21-A), moneys received as aforesaid shall not be appropriated to meet departmental expenditure, nor kept apart from the Government Account.

Audit examined the records of 16 DMOs<sup>40</sup> and of DGM and noticed that an agreement was executed on 11 August 2017 between MSTC Limited and GoUP to provide services for conducting e-auction of mineral blocks in the State. As per agreement MSTC was entitled to a service charge of ₹ 30,000 (exclusive of 18 *per cent* GST) per successful auction of each mining lease within 30 days from the date of receipt of the service charge bills.

After four months of the aforesaid agreement, GoUP executed another agreement with MSTC on 12 December 2017 and removed the clause of payment of services charge by adding the clause that MSTC shall adjust the service charge from the application fee and if required from EMD and deposit the rest amount in Government account. Audit observed that the clauses of the agreement executed between MSTC Limited and GoUP providing for such deduction from revenue receipt were defying the cited rules.

MSTC deducted its service charge and GST amounting to ₹ 70.80 lakh<sup>41</sup> from the Government receipt (to be deposited under Major Head “0853-Non-ferrous Mining and Metallurgical Industries”) which should have been claimed separately and adjusted with departmental expenditure. The details are shown in **Appendix-XI**.

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<sup>38</sup> GB Nagar, Hamirpur, Muzaffarnagar, Prayagraj and Sonebhadra.

<sup>39</sup> Rule 21 of Part I of Financial Handbook Vol. 5.

<sup>40</sup> Baghpat, Banda, Bulandshahar, Chitrakoot, Fatehpur, GB Nagar, Hamirpur, Kanpur Dehat, Kaushambi, Mahoba, Prayagraj, Saharanpur, Sambhal, Shamli, Siddharthnagar and Sonebhadra.

<sup>41</sup> Number of leases test checked in 16 DMOs \*(₹ 30,000 plus 18 *per cent* GST on ₹ 30,000) i.e. 200\*₹ 35,400

The Government, in exit conference, stated that this is a matter of book accounting and there is no loss of revenue from this. Audit is of the opinion that service charge should not be deducted from revenue receipts as this leads to less depiction of revenue receipts figures.

### **3.5 Security deposit deposited in consolidated fund instead of in public account**

According to Rule 13 of the UPMMC Rules, 1963 (as amended time to time) an amount equal to 25 *per cent* of the annual lease amount shall be deposited as security for proper compliance of the terms and conditions of the lease. In terms of Rule 50 (Rule 49 of the UPMMC Rules, 2021) of the above rules, the amount of security deposited with the State Government after the expiry of the mining lease, which is not required to be used for any of the purposes mentioned in these rules, shall be returned to the lessee within a period of six months from the date of determination of the lease.

Para 195 of UP Budget Manual stipulates that besides the normal receipts and expenditure of Government which relate to the Consolidated Fund, certain other transactions enter Government accounts, in respect of which, the Government acts more as a banker, for example, transactions relating to provident funds, other deposits such as security deposits made by contractors or court deposits or deposits by a local body for execution of projects through a Government agency, etc. The moneys thus received are kept in the public account and the connected disbursements are also made therefrom. Public account funds do not belong to Government revenue and have to be paid back some time to the persons and authorities who deposited them.

Audit test-checked lease files of 217 leases in 16 DMOs<sup>42</sup> and noticed that the amount of security deposited by 200 lessees were deposited in the Consolidated Fund under the Major Head of account “0853 Non-Ferrous Mining and Metallurgical Industries”. However, security deposits should have been deposited in the public account in line with the provisions cited above. In contravention of the Budget Manual, the Department deposited security amount of ₹ 315.73 crore into revenue head of account instead of civil account. Due to the deposit of security money in the revenue head of account, revenue was overstated by the Department. The details are shown in **Appendix-XII**.

The Department, in its reply (July 2023), stated that on completion of the mining lease period, the amount of residual security is either adjusted as the final instalment of the lease or returned to the lessee. If the amount of security is deposited in the head of 8443, it will not be possible to deduct from the security in case of violation of the rules or compliance with the terms of the lease deed.

The reply is factually incorrect as the Department can forfeit the security amount in case of violation of the rules or non-compliance. Further, it is in contravention of the provisions of Budget Manual and leads to overstatement of mining revenue.

<sup>42</sup> Baghpat, Banda, Bulandshahr, Chitrakoot, Fatehpur, GB Nagar, Hamirpur, Kanpur Dehat, Kaushambi, Mahoba, Prayagraj, Saharanpur, Sambhal, Shamli, Siddharthnagar and Sonbhadra

### 3.6 Separate accounting of receipts from major and minor minerals not done

Mineral receipts are deposited under Major Head “0853-Non-ferrous Mining and Metallurgical Industries”. Vide correction slip No. 965 dated 9 July 2021, office of the Controller General of Accounts renamed the existing Minor Head ‘102-Mineral Concession Fees, rents and royalties’ as Minor Head ‘102-Major Mineral Concession Fees, rents and royalties’ and inserted the following new Minor Heads in the List of Major and Minor Heads for Union and the States:

Minor Heads ‘107-Minor Mineral Concession Fees, rents and royalties’

Audit observed that revenue receipts from minor minerals were being deposited under Minor Head ‘102-Mineral Concession Fees, rents and royalties’ instead of Minor Head ‘107-Minor Mineral Concession Fees, rents and royalties’. DGM did not issue any instructions to DMOs for separate accounting of receipts from major and minor minerals.

The Government, in exit conference, agreed to make provision for a new minor head on the treasury portal as per order of the Finance Department.

### 3.7 Deposit of royalty/ regulating fee

The UPMMC Rules<sup>43</sup>, 1963 stipulates that interest at the rate of 24 *per cent* per annum (revised to 18 *per cent* from May 2017) will be charged for the delay in deposit of any rent, royalty, demarcation fee and any other dues to the State Government after the expiry of 30 days’ notice period.

#### 3.7.1 Short/non-levy of interest on delayed deposit of royalty

Audit test-checked lease files of 217 leases in 16 DMOs and noticed in eight DMOs<sup>44</sup> that 35 lease holders deposited royalty of ₹ 127.53 crore for the period 2018-19 to 2021-22 with delays ranging from 6 days to 452 days. Though the details of delays in payment were available on records, the Department imposed interest of only ₹ 5.36 lakh against ₹ 7.38 crore. As a result, interest of ₹ 7.32 crore was short levied by the Department as shown in **Appendix-XIII**.

#### 3.7.2 Short/non-levy of interest on delayed deposit of regulating fee

Audit test-checked records of 1,483 brick kilns in 16 DMOs and noticed in nine DMOs<sup>45</sup> that 171 brick kiln owners deposited royalty/regulating fee and *palothan* of ₹ 2.51 crore for the period 2017-18 to 2021-22 with delays ranging from 184 days to 1,854 days<sup>46</sup>. Though, the details of delays in payment were available on records, the Department realised ₹ 8.97 lakh as interest on delayed deposit against applicable interest of ₹ 56.02 lakh. As a result, interest of ₹ 47.05 lakh was short levied by the Department as shown in **Appendix-XIV**.

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<sup>43</sup> Rule 58(2).

<sup>44</sup> Bulandshahar, Chitrakoot, Fatehpur, Hamirpur, Kaushambi, Mahoba, Prayagraj, and Sonebhadra.

<sup>45</sup> Fatehpur, GB Nagar, JP Nagar, Kanpur Dehat, Kaushambi, Prayagraj, Saharanpur, Sambhal and Siddharthnagar.

<sup>46</sup> Delay upto one year, cases 71; delay between one to two years, cases 76; delay between two to three years, cases 15; and delay more than three years, cases 10.



The Government, in exit conference, assured to get deposited the interest amount due from the concerned defaulters.

### 3.8 Penalty not imposed for late submission of Mining Plan

Under the provisions of Rule 59 (1) of the UPMMC Rules, 1963<sup>47</sup> (Forty-third Amendment) the proponent who has received the LoI, but has not submitted the mining plan within the prescribed period of one month as per the provisions mentioned in Rule 34, will be liable to a penalty of one lakh rupees. In case of failure to deposit the amount of penalty, that amount shall be deducted by the District Magistrate from the amount of security deposited against the concerned lease. From August 2019, the amount of penalty has been revised<sup>48</sup> to ₹ 10,000 per day.

Audit noticed that though the State Government revised the amount of penalty and linked it to delay in terms of number of days, the Directorate did not maintain any record by which delays in submission of mining plan could be established. Further, audit test-checked records related to 217 leases in 16 DMOs and noticed that submission date of mining plan was not mentioned in the mining plan and also not available with DMOs. However, in some mining plans, date of preparation was mentioned by the registered qualified practitioners who prepared these mining plans. Audit considered the date of preparation as date of submission of mining plan and calculated the delay. Audit found in five<sup>49</sup> DMOs that in 25 cases mining plans were submitted by lessees to DGM with delays ranging from 4 days to 273 days. The Department approved mining plan without charging the penalty of ₹ 1.08 crore as detailed in **Appendix-XV**.

The Government, in exit conference, stated that instructions have been issued to all DMs to get deposited the penalty as per rule from the proponents for delay in submission of mining plan.

### 3.9 Penalty not imposed on lessees who excavated minerals without Mining Plan

Under the UPMMC Rules, 1963 (as amended time to time), mining operation shall in respect of all minor minerals be undertaken in accordance with the mining plan, detailing yearly development schemes, aspect of reclamation and rehabilitation of mined out areas including progressive mine closure scheme duly approved by the Director of Geology and Mining Department. The mining plan, once approved shall be valid for entire duration of the lease or for five years whichever is earlier. If the lease period is more than five years then in that case the lease holder will resubmit mining plan before the Director.

Under Section 21(5) of the MMDR Act, whenever any person raises without lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised or where such mineral has already been disposed off, the price thereof along with royalty. Further under Rule 21 (2) of the UPMMC Rules, 1963 the total royalty is fixed at the rate of not more than 20 *per cent* of the pits mouth value of minerals. Thus, price of minerals is treated as five times of the applicable royalty.

<sup>47</sup> Notification No. 1956/86-2017-57(General)-2017 dated August 14, 2017.

<sup>48</sup> Vide Notification no. 1868/86-2019-57-2017 dated 13 August, 2019.

<sup>49</sup> Chitrakoot, GB Nagar, Hamirpur, Mahoba and Saharanpur.

Audit test-checked records related to 217 leases in 16 DMOs and found in three DMOs<sup>50</sup> that 14 lessees excavated 8.38 lakh cubic meter<sup>51</sup> of stone ballast/boulder/silica sand between April 2017 and March 2022 without renewal and without revised mining plan and paid royalty of ₹ 12.58 crore which was not in the accordance with the UPMMC Rules, 1963. Minerals produced/transported by the lessees without renewal of mining plan were illegal and therefore, the lessees were required to pay the price of mineral and penalty. Concerned DMOs neither stopped the mining activities nor stopped the issuance of MM-11 forms. They also failed to recover the price of mineral amounting to ₹ 62.90 crore. This resulted in non-realisation of revenue to the Government as shown in **Appendix-XVI**.

The mining plans are prepared by technical experts scientifically in such a manner so that it could help in development of area. If the mining activities are done without approved mining plan, the Department will not have any control over it and lessee may extract more minerals in an unscientific manner which would adversely affect the mineral resources, protection of forest, water courses, and would abet air and water pollution. Further, the Department failed to link generation of MM-11 forms with mining plan as MM-11 forms were issued after expiry of mining plan.

The Government, in exit conference, accepted the Audit observation and stated that suitable provision will be made in the mine mitra portal.

### **3.10 Irregularities relating to work executing agencies**

The UPMMC Rules, 1963 and the Uttar Pradesh Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002 and 2018 stipulate that no person shall transport any mineral without a valid transit pass (Form MM-11<sup>52</sup>/Form C<sup>53</sup>). The MMDR Act<sup>54</sup> stipulates that the price of minerals along with the royalty may be recovered for raising minerals without lawful authority. Rule 70(1) of the UPMMC Rules, 1963 read with Section 4 (1-a) and Section 21 (1 to 5) of MMDR Act stipulates that holder of lease or permit or any person authorised by him for this, issue a transit pass in form MM-11 to every person to transport mineral from any vehicle, cattle or by any means of transport.

Rule 70 (2) provides that no person will transport any mineral in the state without Form MM-11 issued under sub rule (1). Further, Rule 70(6) provides that any person who contravenes the provisions of this rule, if found guilty, will be punished for imprisonment which may raise for six months or fine of ₹ 25,000. Again the State Government, in its order dated 15 October 2015 reiterated that apart from royalty, the price of mineral (ordinarily five times of royalty) be deducted from the contractor's bill and deposited into the treasury, if the contractors do not produce the requisite royalty receipt in the Form

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<sup>50</sup> Chitrakoot, Prayagraj and Sonebhadra.

<sup>51</sup> Quantity of mineral noticed from MM-11 forms issued to the lessees.

<sup>52</sup> Transit pass (*Rawanna*) issued by the holder of the mining lease or crusher plant for transportation of minor minerals. It includes names and addresses of the lease holders, nature and quantity of minerals and vehicle number through which the minerals are transported.

<sup>53</sup> The holder of licence for storage of minerals shall issue the transit pass in 'Form-C' for lawful transportation of minerals from the Store.

<sup>54</sup> Section 21(5) of the MMDR Act.



MM-11 (the rate of royalty was revised by the State Government from 19 January 2016).

Government of Uttar Pradesh order dated 5 October<sup>55</sup> 2006 stated that the concerned departments executing public works should ensure payment to contractors only after payment of due royalty and in case it is not done then responsibility of the concerned officer would be fixed. Government vide its order dated 6 June 2020 instructed that transit passes submitted by the contractors in executing agencies would be verified by DMOs of concerned district.

Thus, any contractor using minerals (like sand, metal, stone, etc.) are required to submit transit pass (Form MM-11/ Form-C) as proof of royalty paid for extracted mineral. In case of non-submission of the relevant form, concerned officers of executing agencies are made responsible to deduct royalty and price of mineral from contractors bills and deposit the same to the Government account.

### **3.10.1 Price of minerals not realised from contractors for works executed without transit passes**

Audit test-checked records in 18 DMOs and noticed in five DMOs<sup>56</sup> that in 156 cases, contractors of 12 executing agencies did not submit the required MM-11 forms along with the bills for the minerals used in civil works. The executing agencies deducted royalty of ₹ 4.48 crore from the bills of the contractors and deposited the same into the treasury between April 2017 and March 2022. However, executing agencies did not recover the price of mineral and penalty from contractors as the transit passes were not submitted by contractors. The concerned DMOs, despite having knowledge of deduction of royalty by the executing agencies, did not raise the issue with them for ensuring recovery of the price of minerals from the works contractors and failed to initiate any action to ensure recovery the price of minerals of ₹ 22.40 crore and penalty of ₹ 39.00 lakh, in accordance with the Government order dated 15 October 2015 which provided for deduction of price of mineral from the contractor's bills, as shown in **Appendix-XVII**.

The Government, in exit conference, assured to look into these discrepancies.

### **3.10.2 Non-realisation of royalty and price of minerals in cases of submission of fake/irregular MM-11 forms to executing agencies**

According to the UPMMC Rules, 1963 MM-11 forms are required to be printed in triplicate- (i) Office copy (of the lease holder), (ii) First copy-for retention at check posts and (iii) Second copy for transporter/end-consumer. Only the consumer's copy (second copy) of MM-11 form is valid for transportation and is to be considered as proof of royalty paid. While issuing a transit pass by the lease holder it is mandatory to fill up all information in all the three copies of the transit pass. Vide its order<sup>57</sup> Government clarified that the executive agency is responsible for realisation of royalty and price of mineral if the contractor does not produce royalty receipt in the form of a valid

<sup>55</sup> No. 4951(1)-77-5-2006-506/05 dated 05 October 2006.

<sup>56</sup> Banda, G B Nagar, Prayagraj, Saharanpur and Siddharthnagar.

<sup>57</sup> 15 October 2015 and 15 July 2019.

transit pass. MM-11 forms submitted by contractors against minerals utilised may be got verified from concerned DMOs. Electronic MM-11 (e-MM-11) forms with 17 digit serial number were introduced with effect from 1 August 2017 in place of printed MM-11 forms.

Rule 5(2) of UP Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002 stipulates that the holder of license for the storage of minerals shall issue the transit pass in Form C for lawful transportation of minerals from the store.

Further, as per Rule 77 of Financial Handbook Volume-VI, the Drawing and Disbursing Officers (DDOs) are responsible for the correctness in all respects of the original records of cash and store, receipt and expenditure.

Thus, while passing bills of the contractors, the DDOs are expected to verify genuineness of submitted documents. The irregularities noticed by Audit in test checked 2,544 MM-11 forms of 41 executing agencies are detailed below:

### **3.10.2.1 Submission of fake/photo copy/office copy/check post copy of MM-11 forms as evidence of royalty paid**

Audit test-checked the records<sup>58</sup> of executing agencies/Departments and cross verified from the website of Directorate of Geology and Mining, GoUP and noticed that:

- In 167 cases, one form was used multiple times by the contractors.

Audit noticed in four executing agencies of three<sup>59</sup> districts that one e-MM-11 form was used multiple times<sup>60</sup> by the contractors as a proof of use of royalty paid mineral. It should be valid in first submission but the executing agencies accepted the same e-MM-11 form multiple times. Royalty, price of mineral and penalty was leviable on the contractors for second and onward submission of the same e-MM-11 form. Failure of the executing agencies to detect submission of same e-MM-11 forms multiple times resulted in non-realisation of revenue of ₹ 35.32 lakh including royalty of ₹ 1.72 lakh, price of mineral of ₹ 8.60 lakh and penalty of ₹ 25 lakh to the Government as shown in **Appendix-XVIII**.

- In 245 cases, either office copy or check post copy of the MM-11 form was used.

Audit noticed in nine executing agencies of six<sup>61</sup> districts that due to submission of office copy/check post copy of MM-11 forms, royalty, price of mineral and penalty was leviable on the contractors. Failure of the executing agencies to detect submission of incorrect copy of MM-11 forms by the contractors resulted in non-realisation of revenue of ₹ 91.61 lakh including royalty of ₹ 5.06 lakh, price of mineral of ₹ 25.30 lakh and penalty of ₹ 61.25 lakh to the Government as shown in **Appendix-XIX**.

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<sup>58</sup> MM-11 forms, vouchers, running bills and final bills of contractor.

<sup>59</sup> Fatehpur, Kaushambi and Siddharthnagar.

<sup>60</sup> Two to nine times.

<sup>61</sup> Banda, Fatehpur, Hamirpur, Kaushambi, Prayagraj and Siddharthnagar.

Out of the above cases, some illustrative cases where fake MM-11 forms and photocopies of MM-11 forms were submitted by a contractor to an executing agency as proof that royalty had been paid for minerals are given in **Table-3.1** and discussed in subsequent paragraphs.

**Table 3.1**  
**Details of fake MM-11 forms and photocopies of MM-11 forms**

Sl. No.	MM-11 Form No.	Details of agreement wherein the MM-11 form was enclosed		Name of lessee in e-MM-11 submitted	Date of issue	Quantity mentioned (in Cubic Meter)	No. of times the same e-MM-11 form submitted
		Agreement No/Voucher No.	Date				
1	31451803026508781	131/SE-736C Basti circle  Vr. No. 69/ 30.03.2022	27.10.2020	M/s Bajrang Stones	17.11.2020	30	Four times
2	31451903027609002			Lalta Prasad	18.02.2021	18	Two times
					22.02.2021	18	Two times
					02.03.2021	18	Two times
3	31451903027609120				22.02.2021	20	Two times
					02.03.2021	20	One time
4	31451803025543411			Mahesh Kumar Aggarwal	16.02.2021	18	Two times
5	31451803025802299			Rajendra Prasad Sahu	27.12.2020	14	One time
				Rajendra Prasad Sahu	26.12.2020	14	Five times
				Rajendra Prasad Sahu	24.12.2020	14	One time
				Sitaram Agarwal	30.01.2021	18	Two times
6	31451903027607989			Lalta Prasad	30.01.2021	18	Two times

Source: Information on basis of Audit findings

- Audit while cross verifying noticed that details of e-MM-11 form nos. 31451803026508781, 31451903027609002, 31451903027609120 and 31451803025543411 were not available on the Departmental website as portal was showing record not found. Further, in the case of MM-11 form nos. 31451903027609002 and 31451903027609120 submitted by the contractors, different dates of issue for the same form no. was mentioned which clearly indicated manipulation and submission of fake forms by contractors.
- It was found that original e-MM-11 form no. 31451803025802299 was issued for district Maharajganj by leaseholder Sri Ahmed Kamal Khan on 8 September 2019 and contractor submitted this e-MM-11 form many times after manipulating name of the lessee and date of issue. Submission of fake MM-11 forms could not be detected by the executing agencies.
- In another case it was found that e-MM-11 form no. 31451903027607989 was originally issued by lessee Sri Lalta Prasad on 3 July 2020 for quantity 14 cubic meter and contractor submitted the same for quantity of 18 cubic meter issued on 30 January 2021. Submission of fake MM-11 form could not be detected by the executing agencies.

Thus, the contractors submitted same MM-11 forms multiple times, submitted office copy/check post copy of the MM-11 forms and also submitted fake MM-11 forms. The executing agencies failed to detect this while releasing payments to the contractors. As MM-11 forms were not authentic, the minerals used in the works should have been considered as obtained from illegal mining. The executing agencies did not get verified the genuineness of submitted MM-11 forms from the concerned DMOs. Thus executing agencies as well as concerned DMOs failed to ensure the sanctity of the transit passes submitted by the contractors to the executing agencies.

#### **3.10.2.2 MM-11 forms submitted were issued for different destinations**

Audit test-checked 2,544 MM-11 forms submitted to 41 executing agencies in 18 districts and noticed in 19 executing agencies of 10 districts<sup>62</sup> that 941 MM-11 forms submitted by the contractors were issued for other destinations. As MM-11 forms were issued for other destinations, royalty, price of mineral and penalty was leviable on the contractors. This resulted in non-realisation of revenue of ₹ 3.54 crore including royalty of ₹ 19.82 lakh, price of mineral of ₹ 99.10 lakh and penalty of ₹ 2.35 crore to the Government as shown in **Appendix-XX**.

#### **3.10.2.3 Dates of MM-11 forms submitted were prior to award of work**

Audit test-checked 2,544 MM-11 forms submitted to 41 executing agencies in 18 districts and noticed in nine executing agencies of five<sup>63</sup> districts that 284 MM-11 forms submitted by the contractors were prior<sup>64</sup> to award of work. As MM-11 forms were issued prior to award of the work, these forms should not have been accepted and royalty, price of mineral and penalty was leviable on the contractors. This resulted in non-realisation of revenue of ₹ 97.99 lakh including royalty of ₹ 4.50 lakh, price of mineral of ₹ 22.49 lakh and penalty of ₹ 71 lakh to the Government as shown in **Appendix-XXI**.

#### **3.10.2.4 Dates of issue of MM-11 forms submitted were after the dates of completion of work**

Audit test-checked 2,544 MM-11 forms submitted to 41 executing agencies in 18 districts and noticed in four executing agencies of three<sup>65</sup> districts that 27 MM-11 forms submitted by the contractors were issued after<sup>66</sup> the dates of completion of work. As MM-11 forms were issued after completion of the works, these forms should not have been accepted and royalty, price of mineral and penalty was leviable on the contractors. This resulted in non-realisation of revenue of ₹ 10.53 lakh including royalty of ₹ 0.63 lakh, price of mineral of ₹ 3.15 lakh and penalty of ₹ 6.75 lakh to the Government as shown in **Appendix-XXII**.

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<sup>62</sup> Baghpat, Banda, Bulandshahr, Fatehpur, Hamirpur, JP Nagar, Kanpur Dehat, Kaushambi, Muzaffarnagar and Siddharthnagar.

<sup>63</sup> Baghpat, JP Nagar, Kaushambi, Prayagraj and Siddharthnagar.

<sup>64</sup> 2 to 1,304 days prior to start of work.

<sup>65</sup> Kaushambi, Prayagraj and Siddharthnagar.

<sup>66</sup> 18 to 157 days after the completion of work.

Submission of fake/irregular transit passes by contractors involved risk of use of illegally mined minerals in the works got executed by executing agencies.

The Government, in exit conference, assured to look into these discrepancies and stated that security measures are being adopted now in the transit pass and efforts are being made to integrate the mining portals of all the states so that such cases can be identified.

**Recommendations:**

- 3. The Government may strengthen co-ordination between Geology and Mining Department and the Government executing agencies undertaking civil works to ascertain that the contractors have sourced minerals from legitimate licensees and submit valid transit passes to executing agencies.**
- 4. The Government may examine irregularities of transit passes in detail and if a serious lapse is found should fix responsibility and take appropriate action.**

### **3.11 Conclusion**

The Department needs to improve their system to collect its dues as there were instances where royalty/Contribution to DMFT/Regulating fee/*palothan*/interest etc. were not realised from lessees/brick kiln owners. The accounting of receipts from minor minerals was also not as per prescribed rules. DGM did not issue any instructions to DMOs for separate accounting of receipts from major and minor minerals. The Department did not charge penalty for late submission of mining plans and failed to realise price of mineral and penalty from the lessees who excavated minerals without revised mining plan.

The Department should strengthen the system to ensure the sanctity of the transit passes submitted by the contractors to the executing agencies as there were instances where the contractors submitted transit passes which were fake/office copy/check post copy or used multiple times or issued for other destinations. In some cases, the date of issue of MM-11 forms was before the work was awarded or after the work was completed. The executing agencies could not detect these discrepancies while releasing payments to the contractors.