

Chapter III

Removal of minerals and realisation of associated revenues

Contrary to the directions of the Hon'ble Supreme Court, the Department allowed excavation of minerals without and in excess of quantity mentioned in environmental clearance. Minerals required for government works were extracted without required clearance certificate from the Mines and Geology Department. As a result, the quantum of seigniorage fee to be received from user Departments is not known and provides scope for illegal excavation of minerals. Mineral Revenue Assessments and Demand Collection Balance, the critical records to assess the types of minerals, quantities removed, revenues realised and pendency were not prepared regularly either manually or digitally. There was delay in implementation of levy of annual compensation fee, non/short levy and collection of dead rent at the enhanced rate. The minor mineral was treated as major mineral despite clarification given by Indian Bureau of Mines resulting in loss of revenue. The very objective of collection of security deposit and financial assurance is to act as deterrent, in case of breaches of contractual obligations and non-fulfilment of the mine closure plan. However, there was short collection or non-forfeiture of security deposit.

The lessee commences removal of minerals from the mines after obtaining necessary statutory clearances, approval of mining plan and grant of lease by the competent authority. The annual quantity fixed in the mining plan is the maximum permitted quantity of the mineral that can be extracted and transported from the mines.

Initially, the lessees have to pay a security deposit at the time of registration of lease deed. Dead Rent⁶⁰ for the first year shall be paid by the lessee at the time of execution of lease deed and in advance for the subsequent lease years. After extraction of minerals and while obtaining permit⁶¹, the lessees have to pay seigniorage fee/ royalty, exploration fund (NMET and MERIT), amount towards District Mineral Foundation⁶² (DMF), Consideration⁶³ amount, *etc.*, on the quantity and type of mineral proposed for removal in the permit.

The role of the Mines & Geology Department and other regulatory authorities for the grant of permits for removal of minerals, collection of revenues and inspection of mining leases is as shown in *Chart 3.1*.

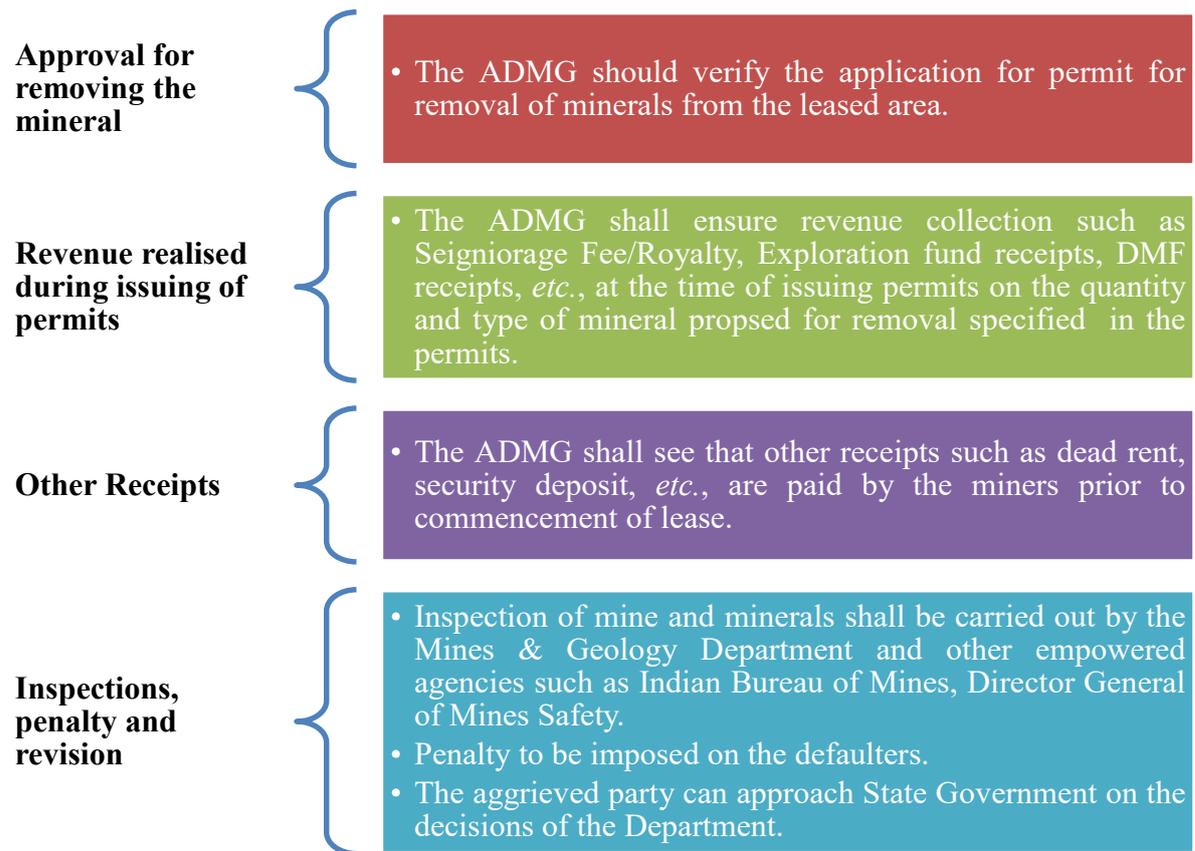
⁶⁰ dead rent is the minimum amount to be paid for the lease at the specified rates for different minerals

⁶¹ the permission taken by the lessee for dispatch of mineral is known as permits

⁶² the amendment in 2015 to MMDR Act brought the provision for establishment of District Mineral Foundation for the welfare of mining affected areas by using contributions from the mining activities

⁶³ levied (from June 2021) as per G.O Ms.No.42 at the time of issuing permit for minor minerals to mitigate the impact of disaster and epidemic by providing rehabilitation/ employment, health infrastructures, *etc.*

Chart 3.1: Showing the role of Mines & Geology Department in removal of minerals



3.1 Process and system for removal of minerals

As per Rule 34 of APMMC Rules 1966, the lessee needs to obtain permit from ADMG before removal of minerals from the granted lease area and after payment of the statutory levies. The application for the permit should contain information related to lease, type of mineral, extracted quantity, transportation of minerals, payment particulars and purpose⁶⁴ of extraction. Upto November 2014, these permits were issued through manual process.

In order to streamline the system, to make the process of issuing permits time efficient and to decrease the manual interventions in issuing the permits, GoAP launched (December 2014) Online Mineral e-Permit System (OMEPS) or e-permit system. OMEPS enables the lease/stake holders to take the permission for dispatch of mineral from their leased areas to stocks points or end user in Online mode.

3.1.1 Implementation of e-permit system

In e-permit system, details of the leases are compiled and uploaded by the Department and the lessees are provided with login credentials for application of permits. The levies to be paid are generated automatically for online payment by the lessee, after validation of the details filled. The permits are generated by the system automatically for despatching/transportation of the mineral.

Audit noticed that:

⁶⁴ own consumption or for sale. In case of sale, the name and address of the purchaser should be furnished

- The Department allowed permits in two modes *i.e.*, auto e-permit and normal e-permit. In auto e-permit, where the lessees have all statutory clearances, requisite information and receipt of payments, permits were generated automatically to despatch the minerals from the lease area. However, where there was no internet connectivity and leases where SEIAA clarified that EC for the leases is not required, normal e-permit system *i.e.*, manual intervention was followed. In these cases, the lessees can approach ADMGs for issue of normal e-permits.
- For minerals used in government works, the e-permit system was not followed, and the contractors engaged by Works/Engineering Departments were allowed to lift the mineral through manual procedure as was being followed since March 1999 (*detailed procedure discussed in paragraph 3.1.4*).
- Though there was increase in issue of auto e-permits compared to normal e-permits during 2017-22, still normal e-permits were continued as detailed in **Table 3.1**.

Table 3.1: Details of revenue realisation by both modes of e-permits

(₹ in crore)

Year	Number of e-permits			Revenue realised from			Total Revenue realised
	Auto	Normal	Total	Auto e-permit	Normal e-permit	Permits for Government works	
2017-18	3,368	31,661	35,029	314	621	454	1,389
2018-19	8,889	29,722	38,611	576	457	483	1,516
2019-20	24,823	20,945	45,768	804	250	422	1,476
2020-21	33,238	12,713	45,951	866	188	340	1,394
2021-22	40,157	10,499	50,656	990	166	432	1,588
Total	1,10,475	1,05,540	2,16,015	3,550	1,682	2,131	7,363

Source: Online mineral e-permit system (<https://www.mines.ap.gov.in/permit/>)

It can be seen from the above table that there was an increasing trend in revenue generation through auto e-permit system. This is a progressive step towards improving transparency and accountability in granting of permits.

Thus, despite lapse of more than eight years from the date of introduction of e-permits, the Department did not take steps to minimise the issue of normal e-permits to have transparency in issue of permits, revenue collection and avoid any kind of manual intervention.

During Exit Conference, the Government stated (March 2024) that without EC, the Department cannot issue permit as stated in the departmental manual. However, Government assured that the details mentioned in the audit observation would be verified and a detailed reply would be furnished.

3.1.2 Lacunae in e-permit system

The Online Mineral e-Permit System (OMEPS) facilitates the lessees to apply and obtain permits remotely as and when required on payment of all the statutory levies electronically and further allows the Department to deposit revenues to various heads. The system calculates revenues based on specific rates fixed by the Government from time to time. However, Audit noticed some deficiencies in OMEPS as detailed below.

(a) Discrepancies in data

The OMEPS portal depicts the list of leases on any given day and is updated by the authorised officials of DMG office.

The status of leases in the entire State on different dates of visit by Audit Team (as of 30 December 2021 and 27 September 2022) to DMG Office revealed variation in data maintained manually and in OMEPS as shown in **Table 3.2**.

Table 3.2: Showing the details of mining leases in the State

Date	Source	Major Mineral Mining Leases			Minor Mineral Mining Leases			Total leases
		Working	Non-working	Total	Working	Non-working	Total	
30 December 2021	DMG	166	268	434	2,791	2,805	5,596	6,030
	OMEPS portal	131	51	182	2,096	1,136	3,232	3,414
	Difference	35	217	252	695	1,669	2,364	2,616
27 September 2022	DMG	132	42	174	2,795	1,495	4,290	4,464
	OMEPS portal	143	40	183	2,260	1,225	3,485	3,668
	Difference	(-11)	2	(-9)	535	270	805	796

Source: Information provided by the Department and OMEPS portal of Mines and Geology Department

The above table indicates the inconsistencies of data between the manual records and OMEPS portal being maintained by DMG. This also indicates that the Department has no system to correctly ascertain basic details of number of working/non-working mining leases to assess the revenue realised and to be realised.

The response of the Government is awaited.

(b) Short collection of revenue due to non-adoption of higher value

As per Government orders⁶⁵, Seigniorage Fee (SF) for the Limestone Slab Black (minor mineral) applicable during the audit period (2017-22) is as detailed below:

From	To	Rate applicable (whichever is higher)
03.11.2016	10.02.2020	₹five per Sq. m or ₹100 per Metric Tonne (MT)
11.02.2020	31.03.2022	₹six per Sq. m or ₹110 per MT

The Government order stipulated that the higher rate between the two measuring units (Sq. m or MT) should be adopted for calculation of SF.

Scrutiny of records of ADMG Banaganapalle, revealed that for conversion of Sq.m to MT, ADMG had adopted a conversion factor of one MT equal to 14 Sq.m. Further, scrutiny of Mineral Revenue Assessment (MRA) of nine lessees revealed that the e-permit system was not programmed with the facility to convert one unit to another. As a result, the value of the mineral in auto e-permit system was arrived at, without adopting higher of the two rates, based on the rates of measurement units provided by the lessee.

⁶⁵ G.O. Ms. No. 100 Industries and Commerce Department (M.I), dated 31.10.2015, G.O. Ms. No. 156, Industries and Commerce Department (M.II), dated 03.11.2016, and G.O.Ms.No.11 Industries and Commerce Department (M.II), dated 11.02.2020

Audit calculated SF and noticed that there was short levy of SF of ₹80.25 lakh due to non-adoption of higher rate using conversion factor (One MT = 14 Sq. m) during 2017-22. Consequently, DMF (10 per cent of SF⁶⁶) and MERIT (two per cent of SF) were also short levied by ₹eight lakh and ₹1.60 lakh respectively (as detailed in *Appendix XI*).

The ADMG replied (December 2022) that MRAs would be revised and the amount would be collected.

During the Exit Conference, the Government stated (March 2024) that the Department had taken initiatives to get the accuracy of minerals removed, however, there was resistance from the lease holders. As a result, the Department was unable to measure the minerals removed/dispached. However, MRAs would be verified and detailed reply would be furnished.

Thus, lack of required provisions in auto e-permit software resulted in a short levy of SF and associated revenues.

(c) Provision for auto deduction of amount towards exploration funds

Scrutiny of e-permit system or OMEPS revealed that for some of the minerals though royalty/SF were collected through online system, there was no provision for levy and collection of the corresponding NMET⁶⁷/MERIT while issuing permits. The non-provision of NMET/MERIT in e-permit system resulted in non-deduction of NMET (₹61 lakh) and MERIT (₹0.59 lakh) receipts of ₹62.08 lakh (as detailed in *Appendix XII (A) & (B)*) for the period 2017-22.

Automatic non-deduction of NMET and MERIT, while issuing permits is a serious lapse in the design of e-permit system.

During the Exit Conference, the Government stated (March 2024) that NMET and MERIT were collected manually, however, now a provision has been inserted in the online portal to collect NMET/MERIT in e-permit system.

However, Government did not furnish any convincing document to show that NMET and MERIT were collected manually and also proof that a provision has been made in the online portal for levy and collection of NMET and MERIT.

3.1.3 Non-adherence to Supreme Court directions

In compliance to Hon'ble Supreme Court of India orders (February 2012), the Ministry of Environment & Forests (MoEF), GoI informed (May 2012) all State Governments that all leases, irrespective of the size of the leases and nature of mineral henceforth would require prior Environment Clearance (EC). For minor minerals with lease area less than five hectares, the respective State Environment Impact Assessment Authorities (SEIAAs) would issue EC as notified by MoEF. The same was again reiterated in January 2016 by MoEF.

The Hon'ble Supreme Court of India held⁶⁸ (August 2017) that extraction of mineral over and above what is permissible under the mining plan or under the EC undoubtedly attracts the provisions of penalties (Section 12 (5) of MMDR Act). Further, penalty under the

⁶⁶ G.O. Ms. No. 157, Ind & Com.(M-II) Dept, dated 03.11.2016

⁶⁷ GoI Notification vide GSR 632(E) dated 14.8.2015, levied at two per cent of royalty collected on major minerals

⁶⁸ common cause vs the Union of India vide W.P.(Civil) No. 114/2014 dated 02.08.2017

provisions is applicable when any person raises, without any lawful authority, any mineral from any land. In that event, the State Government is entitled to recover from such person the mineral so raised or where the mineral has already been disposed of, the price thereof as compensation.

(a) Removal of mineral without Environmental clearance

As per the direction (February 2012/August 2017) of the Hon'ble Supreme Court, irrespective of size of the mining lease area, the quarrying /extraction of mineral is permitted only if prior EC has been obtained from the concerned authority and drawal of quantity in excess of permissible quantity as mentioned in mining plan is not allowed. The non-compliance shall be treated as illegal and penalty as per the provisions of the Act is to be levied.

Scrutiny of records of Mines & Geology Department revealed that the mining leases were categorised as leases of less than five hectares and more than five hectares.

Audit noticed that in contravention to the Hon'ble Supreme Court directions, three⁶⁹ ADMGs, allowed 55 lessees having lease area less than five hectares to remove minerals without obtaining ECs during the audit period. Similarly, seven ADMGs⁷⁰, allowed 104 lessees having lease area of more than five hectares to remove minerals without having ECs during 2017-22. The removal of minerals without obtaining ECs should have been treated as illegal.

However, the Department had not treated the removal of mineral without EC as illegal and had not recovered the cost of the mineral which resulted in non-levy of penalty⁷¹ of ₹19.74 crore in case of three minor minerals for area less than five hectares (as detailed in *Appendix XIII(A)*) and ₹229.47 crore in case of eight minerals for area more than five hectares (as detailed in *Appendix XIII(B)*). The Department should fix responsibility on the concerned officials for allowing removal of minerals by lessees without obtaining EC.

In response to Audit observation, SEIAA replied (April 2023) that the Hon'ble Supreme Court orders are valid for all leases operated irrespective of the extent of the lease or the lease granted before specific date. The reply of SEIAA is commensurate with the observation made by Audit.

During Exit Conference, the Government stated (March 2024) that due to miscommunication between SEIAA and the Department, penalty was not being imposed. The Government stated that all such issues would be reviewed and detailed reply would be furnished.

⁶⁹ Banaganapalle, Kurnool and Nandigama

⁷⁰ Anakapalli, Banaganapalle, Kadapa, Nandigama, Vijayawada, Visakhapatnam and Yerraguntla

⁷¹ penalty at the rate of the prevalent rule i.e., five times of the normal seigniorage fee. Normal seigniorage fee at the time of the audit was taken for the calculation

(b) Removal of mineral more than the quantity permitted

Audit noticed that during 2017-22 in three ADMGs⁷², four lessees have excavated minerals (Road metal and Gravel: 1,70,722 cum and Yellow Ochre: 30,350 MT) in excess of the quantity mentioned (Road metal and Gravel: 66,087 cum and Yellow Ochre: 19,950 MT) in EC. The excess quantity removed should have been treated as illegal as per the Hon'ble Supreme Court orders. As such, the lessee should be penalised for the excess quantity excavated. The cost of minerals that has to be recovered from the lessee as penalty amounts to ₹4.94 crore (as detailed in *Appendix XIV*). The Department should fix responsibility on the concerned officials for allowing removal of minerals by lessees in excess of permitted quantity.

During Exit Conference, the Government stated (March 2024) that due to remote location of lessee and lack of internet connection, removal of minerals more than quantity permitted occurred and due to lack of infrastructure, exception to the lessees are given. However, Government stated that a detailed reply would be furnished.

Allowing the lessees to extract minerals in excess of the quantity mentioned in EC shows lack of monitoring mechanism on the part of the Department.

3.1.4 Utilisation of minerals for government works

For minerals to be used in government works, the procedure detailed (March 1999)⁷³ by GoAP is being followed. As per the laid procedure, the contractors engaged by Works/Engineering Departments can lift the mineral without the production of clearance certificate from the Mines & Geology Department. Further, SF is deducted by the concerned Works/Engineering Department from the bills of the contractor for the minerals used in the works and subsequently, remitted to DMG account.

(a) Absence of monitoring mechanism for minerals consumed in government works

Audit noticed that the procedure followed for removal of minerals used in government works was in contravention to the procedure mentioned in rule 10(3)(b) of APMMC Rules, 1966. The rules stipulate that a statutory levy (Seigniorage Fee, Dead Rent, *etc.*) shall be paid by lessee before the mineral is removed from the leased area along with permit.

Due to the procedure of lifting of the mineral without permits/clearance certificate being followed for minerals used in government works, ADMGs were unaware of the nature and quantity of minerals utilised in government works along with SF to be received against the amount received.

The ADMG Kadapa and Yerraguntla replied (December 2022) that SF is being deducted by the consuming Departments from the work bills of the contractors and credited to the Mines & Geology Head of Accounts. The DMG stated that there is provision to deduct SF by the concerned Engineering Departments from the running account bills of the concerned works.

In the absence of information on nature and quantity of minerals removed/used, the revenue realised from the Engineering Departments (Water Resource Department, Roads &

⁷² Anakapalli, Visakhapatnam and Yerraguntla

⁷³ G.O. Ms. No. 23, I&CAG (PW: COD) Department, dated 05.03.1999

Buildings, etc.) could not be ascertained. Hence, the revenues receivable for minerals utilised for government works cannot be ascertained.

Further, Audit noticed that in case of permit system, revenues are realised prior to extraction/transportation of minerals. However, in respect of government works, revenues were realised after consumption of minerals which defers the revenue receipts of the Department. There was no mechanism in place to inspect extraction and subsequent transportation of minerals from lease area to work spot to prevent any instances of mis-utilisation/illegal utilisation of minerals, if any.

The absence of monitoring mechanism is encouraging the possibilities of illegal mining activities and the Department is not in a position to ascertain the legality of minerals extracted without permits, as is evident from the case study made in this regard.

Case Study 4

In ADMG Kadapa, a lease was granted⁷⁴ (March 2009) for a period of 10 years for quarrying road metal and building stone in seven acres of land. Prior to termination of lease period (March 2019), the lessee applied (January 2019) for renewal of lease within the prescribed time. Accordingly, inspection of the leased area was conducted (June 2019) by the Mines & Geology Department. During inspection, the Department measured the pits and noticed that the extracted quantity (65,329.99 cum) from the lease area was more than the quantity allowed in permit (20,642.00 cum) obtained by the lessee during the same period.

The lessee replied that the excess quantity of road metal of 44,687.99 cum was supplied to various contractors for use in government works. The Department enquired (July 2019 and June 2022) the concerned Engineering Departments to confirm the genuineness of the material used in the government works. However, there was no response from the Engineering Departments.

Pending receipt of response from Engineering Departments, the Department issued (July 2019) LoI to the lessee and granted (January 2021) renewal of lease (effective from May 2019) for another 15 years. Further, in the absence of the report related to the mineral utilised from the Engineering Departments, ADMG issued (December 2021) demand notice for payment of penalty of ₹2.94 crore towards SF together with five times of penalty, DMF, MERIT and consideration amount for the excess dispatched quantity of road metal. Subsequently, the renewal of lease granted (February 2022) was cancelled as the lessee failed to execute the quarry lease deed within the stipulated period.

The action taken against the lessee by the Department for collection of SF, penalty, etc., as mentioned in demand notice was not on record.

Thus, due to lack of mechanism for monitoring minerals removed and utilised in government works, the Department failed to identify the excess/unauthorised extraction of mineral over the permitted limit and lost the opportunity to curb revenue loss. Such incidents also give an opportunity to lessees to extract excess minerals over the permitted limit by stating that the excess mineral was removed for government works.

⁷⁴ in Survey Number 1596 of Gopagudipalli village, Ramapuram mandal

During Exit Conference, the Government accepted (March 2024) that this was the earlier practice, as per the orders issued in March 1999. It was further stated that Inter-departmental committee has since been constituted to look after mineral consumed in other Departments. The Department is also developing a portal that would sort out all these issues. The software to be developed would contain details of minerals consumed in other Departments.

(b) Non-realisation of DMF and MERIT for minerals consumed in government works

As per DMF Rules (GoAP orders issued in March 2016), all lease holders of major/minor minerals shall, in addition to royalty/SF pay to the respective DMF, an amount equivalent to 30 *per cent* of royalty/SF, if the lease has not been granted through auction. If the lease has been granted through auction, 10 *per cent* of royalty/SF would be levied. As per MERIT Rules, all lessees of minor minerals shall pay two *per cent* of SF at the time of removal of minerals for all permits issued from 2016 onwards. The rules do not provide any specific exemptions for levy and collection of DMF and MERIT for government works.

Audit noticed that:

➤ DMF and MERIT at prescribed percentages were not levied and collected from the contractors of government works by the concerned Engineering⁷⁵ Departments. As a result, there was non-levy and collection of DMF of ₹639.30 crore⁷⁶ and MERIT of ₹42.62 crore during 2017-22 (as detailed in *Appendix XV*).

➤ In other States⁷⁷ of the country, DMF was levied and collected for minerals consumed in government works without any specific exemption.

Thus, there was a loss of ₹681.92 crore due to non-levy of DMF and MERIT on the minerals used in government works.

During Exit Conference, the Government stated (March 2024) that after introduction of DMF and MERIT, initially DMF and MERIT were collected from the private party, however, not from other Government Department. The Government also stated that now, a portal is developed to estimate minerals consumed in other government works and integrated with government portal to streamline the process.

Recommendation 3.1: *The State Government may revise the previous orders for removal of minerals, without clearance certificate for minerals utilised in government works, to avoid any kind of illegal excavation and to account for the minerals with definite revenue realisation.*

⁷⁵ Water Resources Department, Roads & Building Department, APIIC, Polavaram Irrigation Project, etc.

⁷⁶ Seigniorage Fee realised during 2017-22 under government works was ₹2,131 crore

⁷⁷ Kerala, Karnataka, Telangana, Odisha, Maharashtra, Chattisgarh, Jharkhand and Goa

3.1.5 Short levy of penalty due to incorrect adoption of rate

In case of minor mineral mining leases (provisions as stipulated in Rule 26 of APMMC Rules, 1966), if any person carries out quarrying operations or transports minor minerals without any lawful authority, the penalty shall be levied at 10 times of SF along with normal SF (as amended by Government order July 2020).

Audit noticed that in ADMG Banaganapalle, penalty was imposed (January-March 2022) on 10 lessees for extracting and transporting minerals without permits. However, it was noticed that the penalty was incorrectly calculated based on the quantity measured in Sq.m instead of MT being higher of the two measuring units (*refer paragraph 3.1.2 (b)*). The rate of SF leviable for the minor mineral (LSS Black)⁷⁸ was ₹six per Sq.m or ₹110 per MT, whichever is higher. The non-compliance of stipulated rule to levy the higher rate resulted in short levy of penalty by ₹4.43 crore as detailed in *Appendix XVI (A)*.

Consequently, the short collection of SF in the form of penalty also resulted in short levy of DMF and MERIT of ₹three lakh and ₹0.60 lakh respectively. Further, consideration amount⁷⁹ was also not levied for the penalties amounted to ₹1.27 crore as detailed in *Appendix XVI (B)*. The adoption of incorrect rate resulted in a total non-levy of ₹5.73 crore⁸⁰ of penalty.

The Government accepted (January 2024) the audit observation and demand notices in respect of 10 defaulters were issued.

3.1.6 Non-assessment of DMF and MERIT

Government introduced DMF Rules⁸¹ in 2016 wherein it was mentioned that an amount at the rate of 30 *per cent* of SF/Royalty was to be levied and collected for the mineral extracted from the leases granted without auction and at 10 *per cent* for the leases granted through auction towards DMF. Further, DMF rates for granites were fixed at 12.5 *per cent* of SF during audit period⁸² and MERIT has to be levied at two *per cent* on SF.

Audit noticed that in four ADMGs⁸³ in 71 penalty cases (for different minerals) for various offences, the normal SF and penalty were levied and collected at applicable rates. However, the corresponding DMF and MERIT, which are charged on the normal SF, were not levied (as detailed in the *Appendix XVII*). The non-levy of DMF and MERIT amounts to ₹86.13 lakh and ₹6.05 lakh respectively.

In addition to above, Audit noticed that the Department did not maintain the data related to total penalty levied mineral-wise and year wise, the place of the occurrence of the unauthorised activity, head of account to which the SF collected in respect of penalties was accounted for. In the absence of above information, the genuineness of collections and deposit of mineral revenue could not be ascertained.

⁷⁸ G.O. Ms. No. 11, Industries and Commerce Department (M-II), dated 11.02.2020

⁷⁹ it's a levy at 50 *per cent* of SF for granite and 100 *per cent* of SF for remaining minor minerals as per orders effective from June 2021

⁸⁰ (₹4.43+₹1.27+₹0.006+₹0.03) crore

⁸¹ G.O.Ms.No.36, Industries and Commerce Department (M.II), dated 14.03.2016

⁸² G.O. Ms. No. 30, Industries and Commerce Department (M.II), dated 16.02.2017

⁸³ Kurnool, Kadapa, Visakhapatnam and Yerraguntla

During the Exit Conference, the Government stated (March 2024) that in this regard fresh circulars would be issued to assess the DMF and MERIT.

3.1.7 Levy of penalty for unauthorised extraction

As per Rule 26 (1) & (2) of APMMC Rules, 1966, if any person carries on quarrying operations or transports minor minerals in contravention of these rules, he shall be liable to pay as penalty, such enhanced seigniorage fee together with assessments as may be imposed by an Officer nominated by the Director of Mines and Geology (DMG). Such minerals may be seized by an Officer nominated by the DMG in this behalf in addition to the imposition of the penalty.

(a) Incorrect adoption of rule

As per amended Government order issued in March 2016, the person shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ₹five lakh along with double the market value of the mineral or both.

Audit noticed that in ADMG Banaganapalle, in two cases⁸⁴, where minerals were transported (February 2020), penalty (*refer Para 4.2 where penalty was waived in one of the case*) was not levied as per the said provisions. Though prescribed rule was mentioned in the demand notices, double the market value was not levied and instead only the market value was levied which resulted in short levy of penalty⁸⁵ of ₹1.94 crore *as detailed in Table 3.3* below.

Table 3.3: Showing the short levy of penalty

Name of the ADMG	Quantity (in Sq. m)	Penalty		Short levy [#]	
		To be levied*	Levied	with fine	without fine
Banaganapalle	5,10,830	4.39	2.45	1.99	1.94

Source: Information furnished by the Department

*Two times the Market Value of ₹43 per Sq. m

Fine amount up to ₹five lakh which may be levied at the discretion of levying authority.

Consequently, the short levy of penalty also led to non-levy of DMF and MERIT of ₹2.61 lakh and ₹0.51 lakh respectively on the normal SF as detailed in *Appendix XVIII (A)*.

During the Exit Conference, the Government accepted (March 2024) the audit observation and stated that difference of amount would be collected, and instruction would be issued to the concerned ADMGs.

(b) Incorrect adoption of rate and rule

As per amended Government order issued in July 2020, the person shall be liable to pay 10 times of normal Seigniorage Fee (SF) as penalty in addition to the normal SF along with DMF and MERIT on the assessed quantities.

Audit noticed that in ADMG Banaganapalle, demand notices were issued (October 2020) to five persons for quarrying the minor mineral (LSS Black) from the lease premises of another lessee. As unauthorised persons were quarrying in the leased areas, penalty at 10 times of SF

⁸⁴ Sri Gowra Babu and Sri Mohammad Gous alias Syma

⁸⁵ calculated considering the minimum penalty *i.e.* leaving the amount of ₹five lakh

should have been levied. However, ADMG levied penalty at five times of SF which resulted in short levy of penalty.

Further, SF should have been levied in MT or Sq.m whichever is higher. However, ADMG has not converted the unit of measurement of mineral to higher value of SF instead levied in Sq. m which resulted in short levy of penalty of ₹9.22 crore (as detailed in the **Appendix XVIII(B)**). Consequently, the corresponding DMF and MERIT, which are charged on normal SF were short levied by ₹13.71 lakh and ₹2.74 lakh respectively (as detailed in **Appendix XVIII(C)**).

During the Exit Conference, the Government stated (March 2024) that the concerned ADMGs would be instructed to take necessary action.

3.2 Other sources of revenues

Apart from the Royalty/SF, levied and collected at the time of issue of permits, the Department shall also collect security deposits and other revenues⁸⁶ from the mining lease holders. The mineral revenue is to be assessed through Mineral Revenue Assessment⁸⁷ (MRA) for every financial year by ADMG concerned, in respect of both major and minor minerals dispatched or consumed by different lessees in the district. MRA contains the demand, collection, balances of revenue duly considering the arrears along with the quantity of mineral permitted to be extracted for the year.

3.2.1 Maintenance of records of Mineral Revenue Assessment and Demand Collection Balances

As per circular issued (March 2020) by Mines & Geology Department and Mines Manual, ADMG shall prepare and submit MRA pertaining to both major and minor minerals to concerned DDMG along with a copy of the preceding year's approved MRA. The MRAs shall be prepared to verify the individual lessee accounts and to ascertain the levies and collection of revenues from the lessee. The DDMGs or DMG after scrutiny shall approve the MRAs⁸⁸. A copy of the Mineral Dues Clearance Certificates shall be sent to the concerned ADMG for report on the status of the mineral revenue dues pertaining to existing/expired/cancelled leases/ pending court/vigilance cases, *etc.*, along with copies of approved MRAs for preceding four years by DDMG/DMG.

After MRAs are finalised by ADMGs, the assessments would be entered in a register called Demand Collection and Balances (DCB⁸⁹), which exhibits the details in respect of all MRAs under each ADMG. The DCB statements shall be forwarded to DMG by 15th April of subsequent year giving analysis of arrears pending recovery.

Audit noticed that MRAs and DCBs were not prepared regularly in all the eight sampled ADMGs. Due to irregular preparation of MRAs and DCBs, Audit could not verify whether MDCC were prepared and returns submitted to DMG as per the laid down procedures.

⁸⁶ Dead rent, Annual compensation fee, Financial Assurance, Interest on belated payments, application fee for various permits and licenses, Surface rent, cess on Surface rent, penalties, *etc.*

⁸⁷ as per the paragraph 16.8 of Mines Manual read with Circular Memo No. 1290/MR/2020 dated 13.03.2020

⁸⁸ DDMG, if the demand of Royalty/ Seigniorage Fee is within the limit of ₹50 lakh and DMG for above ₹50 lakh

⁸⁹ as per Para 16.10 of the Mines Manual of the Department

Scrutiny of DCB registers in selected offices revealed significant discrepancies in carrying forward of closing balance of previous year as the opening balance of current year. With such discrepancies, the authenticity and genuineness of DCB registers could not be ascertained.

The Government accepted (January 2024) the audit observation and stated that instructions have been issued to all the District offices to complete the preparation of MRAs and finalise the DCBs. Further, the Government replied that DCBs would be revised for the period 2018-19 to 2022-23 to avoid any lapses.

Thus, MRAs and DCBs were not prepared regularly either manually or generated through OMEPS portal.

3.2.2 Short levy of dead rent and interest

As per section 10 of APMMC Rule 1966, when a quarry lease is granted, the SF or dead rent whichever is higher shall be a charge on all minor minerals dispatched or consumed from the lease area at specified rates for different minerals. Dead rent for the first year shall be paid by the lessee at the time of execution of lease deed and in advance for the subsequent lease years. The dead rent is collected to ensure that even if there is no extraction of minerals from the lease area, a minimum revenue is ascertained. The SF leviable during the permits get adjusted with the dead rent already paid by the lessee.

(a) Loss of revenue due to misclassification of white shale

Government of India (GoI) notified⁹⁰ (February 2015) 31 major minerals as minor minerals, which includes 'White Shale'. Accordingly, GoAP fixed dead rent (November 2015) for the said minerals⁹¹ at ₹15,000 per hectare per annum up to 10 February 2020 and revised the rate to ₹65,000 per hectare per annum from 11 February 2020 onwards.

Scrutiny of records of ADMG Yerraguntla revealed that a lessee⁹² was holding two mining leases⁹³ in an extent of 83.79 hectares for a period of 20 years (from 2003 to 2023). The minerals excavated include White Shale along with associated minor minerals. The ADMG instead of classifying White Shale as minor mineral, treated it as major mineral. The misclassification of mineral resulted in short levy of dead rent of ₹1.13 crore (*as detailed in Appendix XIX*) during the period 2016-22.

Audit noticed that GoAP belatedly requested (June 2022) GoI for clarification regarding classification of white shale as major or minor mineral. The GoI clarified⁹⁴ (August 2022) to treat it as minor mineral only.

The Government replied (January 2024) that based on the clarification given by Central Government (August 2022), the State Government declared⁹⁵ (February 2023) the white shale and white clay as minor minerals and fixed the SF as ₹180 per ton and dead rent at

⁹⁰ Gazette No. S.O. 423(E) dated 10th February 2015

⁹¹ except mica, barytes, laterite, agate, diasporite and corundum

⁹² M/s Mangalore Mineral Traders

⁹³ one lease for an extent of 40.469 hectares in Survey No. 730, Mangapatnam village, and another lease for an extent of 43.320 hectares in Survey No.425, Chinthakunta village, Muddanur Mandal from 08.04.2003 to 07.04.2023

⁹⁴ letter No. 16/60/2022-mines VI, dated 26.08.2022

⁹⁵ G.O. Ms. No. 6, dated 10.02.2023

₹20,000 per hectare per annum. During Exit Conference, the Government stated (March 2024) that demand notices would be issued to the concerned lessee for realisation of short revenue.

Thus, incorrect classification of White Shale as major mineral for the period 2016-2022 resulted in loss of revenue of ₹1.13 crore, which otherwise would have accrued to the Government.

(b) Non levy of dead rent at enhanced rates for major minerals

As per MMDR Act, 2015, rates of dead rent for Iron ore and Limestone from September 2019 were fixed as detailed below:

(in ₹ per Hectare per annum)

Name of Mineral	Rate of Dead Rent		
	From 4 th year of lease #	5 th and 6 th year of lease	7 th year of lease
Limestone	800	2,000	4,000
Iron Ore	1,600	4,000	8,000

Dead rent is applicable for the leases granted other than auction route which came into effect from January 2015. All the major mineral mining leases were granted through auction from January 2015. Above dead rent rates were applicable from 2019 in respect of leases granted prior to 2015 which would have completed three years.

Audit noticed that in three ADMGs⁹⁶, for 10 leases granted during the period July 1972 to January 2012, the dead rent was not levied at enhanced rates during 2019-20 and 2020-21 in respect of the two major minerals viz., Limestone and Iron Ore. The non-levy of enhanced rates resulted in short levy of dead rent of ₹28.17 lakh (as detailed in the *Appendix XX*).

During the Exit Conference, the Government stated (March 2024) that GoI had kept the issue in abeyance, however, demand would be raised.

(c) Short levy of dead rent in respect of minor minerals

The GoAP amended⁹⁷ (February 2020) Rule 10 of the APMMC Rules, 1966 and enhanced the rate of dead rent for all minor minerals.

Scrutiny of lease deeds and challans in ADMG, Kurnool and Anakapalli revealed that the dead rent was not levied at enhanced rates at the time of execution of lease deeds. The total short levy of dead rent amounted to ₹9.22 lakh for the year 2020-21 as detailed in *Table 3.4* below.

Table 3.4: Statement showing short levy of dead rent for minor minerals

(₹ in lakh)

Name of the office	Name of the Mineral	Lease execution date	Extent (in Hectare)	Dead Rent per Hectare (in ₹)	Dead rent to be levied/collected	Dead Rent levied /collected	Short levy/ collection
Kurnool ⁹⁸	Dolomite	30.07.2021	73.11	20,000	14.62	10.97	3.65
	Road Metal	24.02.2020	3.93	65,000	2.55	1.96	0.59

⁹⁶ Banaganapalle: two leases, Kadapa: six leases and Yerraguntla: two leases

⁹⁷ G.O.Ms.No. 11 Industries and Commerce (M-II) Department, dated 11.02.2020

⁹⁸ Sri Balaji Works, Sri K.E. Prathap

Anakapalli ⁹⁹	Color granite	11.09.2015	13.58	1,30,000	17.65	12.67	4.98
Total							9.22

Source: Information collected from the Department

The ADMG, Kurnool replied (December 2022) that dead rent at enhanced rates would be collected. The ADMG, Anakapalli replied that the matter would be examined. The DMG replied that instructions would be issued to all unit offices to rectify such lapses.

(d) Short levy of interest

As per rule 49 of Mineral Concession Rules 2016, the State Government may without prejudice to the provisions contained in the Act and Rules made thereunder charge simple interest on belated payments at the rate of 24 *per cent* per annum on any rent, royalty, or fee from the 60th day of the expiry of the date fixed by the Government for payment of such royalty, rent and fee.

Audit noticed that in two ADMGs (Banaganapalle and Yerraguntla), the interest was short levied by ₹1.21 crore in respect of two lessees¹⁰⁰ for delayed remittance of dead rent as detailed in the **Table 3.5**.

Table 3.5: Statement showing short levy of interest for belated payment of various charges

(₹ in crore)							
ADMG offices	Year	Opening Balance of the arrears of Dead Rent	Collections	Closing Balance of the arrears of Dead Rent	Interest leviable at 24 <i>per cent</i>	Interest levied	Short levy of interest
Banaganapalle	2017-18	6.18	NIL	6.18	1.48	0.71	0.78
Yerraguntla	2020-21	2.19	NIL	2.19	0.52	0.09	0.43
Total		8.37	-	8.37	2.00	0.80	1.21

Source: Information furnished by ADMGs

The Government replied (January 2024) that as of May 2020, one of the firms¹⁰¹ had outstanding dues of ₹41.60 crore. The firm had remitted only ₹0.17 crore and had become sick (filed application before National Company Law Tribunal in December 2018). Another lease holder¹⁰² in DDMG, Yerraguntala had paid the Dead Rent arrears in different spells. The MRAs have been revised for the lease holder and accordingly the interest was charged based on payment made by the lease holder. Hence, there is no short levy of interest.

The reply is not acceptable, as no arrears were collected by the Department during the entire year and hence interest at 24 *per cent* was to be levied and collected.

3.2.3 Short collection and non-forfeiture of security deposit

As per Rule 14 of APMMC Rules, 1966, before the deed is executed, an applicant for a quarry lease shall deposit a sum equivalent to one year dead rent as Security deposit, for the due observance of terms and conditions of the lease. As per Rule 12 (5)(h)(xii) of Andhra Pradesh Minor Mineral Concession Rules 1966, if the lessee or the bidder makes default in

⁹⁹ M/s Tulip Granite Private Limited

¹⁰⁰ M/s Panyam Cement India Ltd in ADMG Banaganapalle and M/s India cement in ADMG Yerraguntala

¹⁰¹ M/s India Cements

¹⁰² M/s Panyam Cement India Limited

payment of any money due under the rules within the stipulated period or neglects to furnish security deposit or to execute the lease deed when required, DDMG may pass an order forfeiting all sums paid and cancel the quarry lease.

(a) Short collection of Security Deposit

The Industries and Commerce Department issued (February 2022) a gazette¹⁰³ notification and enhanced the existing security deposit of one time of dead rent to three times of dead rent. This was made applicable to all the new and existing lessees. The differential amount was to be collected from the existing lease holders within three months from the date of notification.

Audit noticed that in seven ADMGs¹⁰⁴, the differential amount of security deposit was not collected at enhanced rate in respect of 224 leases, resulting in short collection of ₹17.88 crore (as detailed in *Appendix XXI*).

Four ADMGs¹⁰⁵ replied (August/ December 2022) that differential amount towards security deposit would be collected. The ADMG Vijayawada replied that all the lessees shall deposit the differential security deposit. The remaining two ADMGs (Anakapalli and Visakhapatnam) replied (August 2022) that matter would be examined. DMG replied that all the unit offices were instructed to rectify such lapses pointed out by Audit.

During Exit Conference, the Government stated (March 2024) that there is a Court stay order on collection of Security Deposit.

The reply is not acceptable, as the respective ADMGs have accepted the audit observation and promised to recover the due amount and had not mentioned about any Court orders on the issue. Further, the Government did not furnish the details of stay order given by Court.

(b) Non-forfeiture of Security Deposit

Audit noticed that in six¹⁰⁶ ADMGs, the security deposit amount of ₹19.21 lakh received from 44 leases which lapsed between November 2006 to March 2022 was not forfeited for the breaches¹⁰⁷ by the lessee (as detailed in the *Appendix XXII*).

The Government accepted (January 2024) the audit observations and submitted that due to administrative reasons there was a delay in forfeiture of security deposit and instructions have been issued to forfeit the Security Deposit in respect of leases determined/expired.

3.2.4 Determination of annual compensation for leases granted

As per section 52 of Mineral Concession Rules, 2016 (effective from March 2016), the holder of a mineral concession shall be liable to pay annual compensation to the owner (State Government) of the land towards surface rights, as may be determined by an officer appointed by the State Government by notification in this regard. The annual compensation shall be payable on or before such date as may be specified by the State Government.

¹⁰³ G.O.Ms.No.8, Industries and Commerce Department (M-III) dated 16.02.2022

¹⁰⁴ Anakapalli, Banaganapalle, Kadapa, Kurnool, Vijayawada, Visakhapatnam and Yerraguntla

¹⁰⁵ Banaganapalle, Kadapa, Kurnool and Yerraguntla

¹⁰⁶ Anakapalli, Banaganapalle, Kurnool, Vijayawada, Visakhapatnam and Yerraguntla

¹⁰⁷ Stopping of mining operations for more than two years, non erection of boundary pillars, having mineral dues, non-submission of accounts, EC, CFE & CFO, etc.

Audit noticed that despite a lapse of seven years from the inception of rules, the State Government did not appoint Officer to determine annual compensation. During the audit period, annual compensation was not determined in respect of 144 major mineral mining leases measuring an extent of 7,649 hectares (as detailed in *Appendix XXIII*). Due to non-fixation of annual compensation by the State Government, the loss of revenue in the form of annual compensation could not be estimated.

During the Exit Conference, the Government accepted (March 2024) that the Department is collecting royalty and surface rent but not annual compensation fee. However, the Government stated that a detailed reply would be furnished.

Thus, despite there being a provision in the rules framed for levy of annual compensation, the State Government did not appoint an officer to determine the quantum of annual compensation to be levied for the surface rights given to the holder of mineral concessions. Thereby the State Government lost an opportunity to realise legitimate revenue.

Recommendation 3.2: The State Government may devise online systems or strengthen the existing Online Mineral e-Permit System to generate MRAs, DCBs and demand notices automatically, without human intervention and to ensure that the associated revenues as prescribed in the Acts & Rules are levied and collected appropriately to prevent any kind of loss to the Exchequer.